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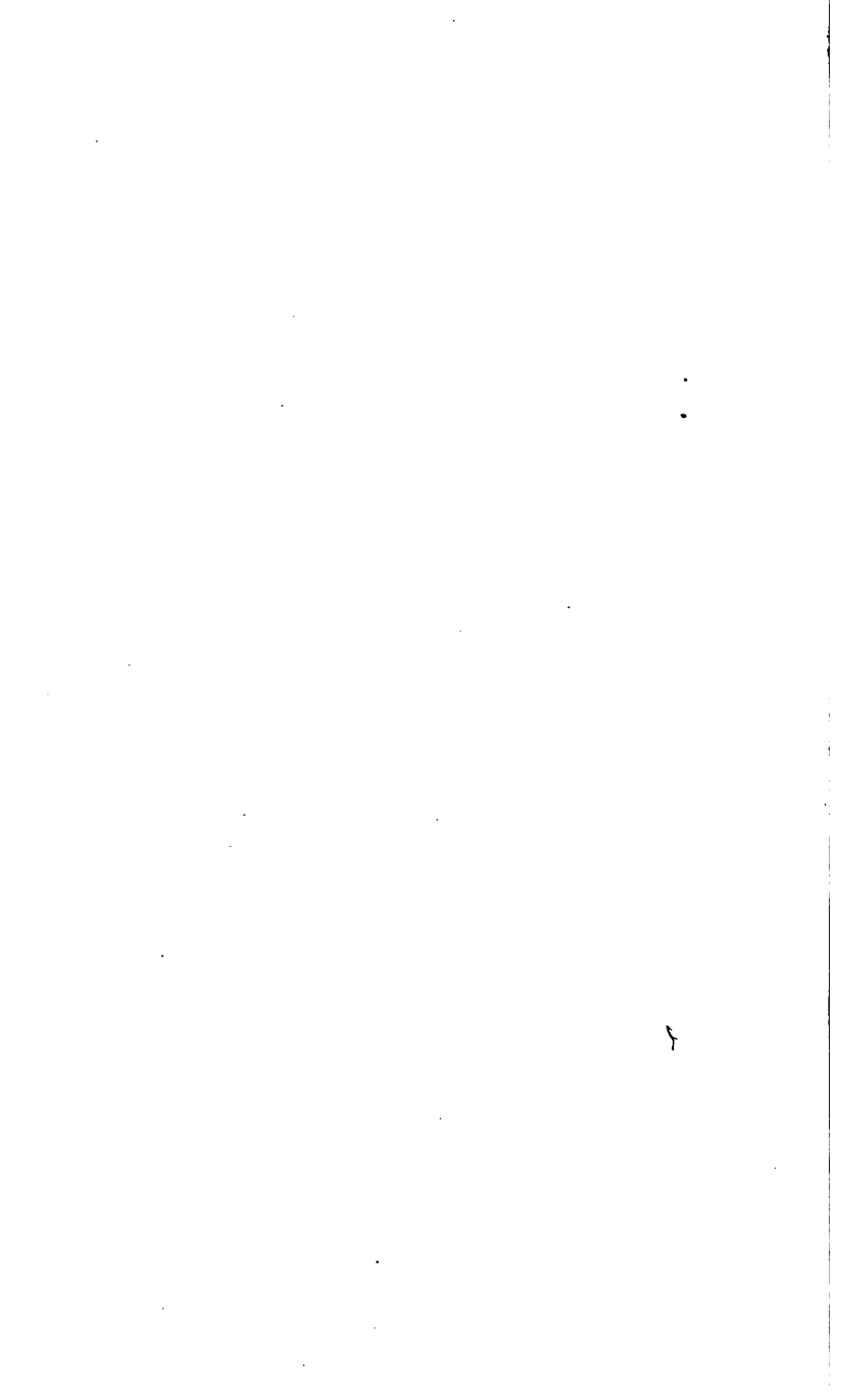
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A
POLITICAL ACCOUNT
OF THE
Island
OF
TRINIDAD,

FROM ITS CONQUEST

By Sir RALPH ABERCROMBIE, in the year 1797,

TO THE PRESENT TIME,

IN A

LETTER

TO

HIS GRACE THE DUKE OF PORTLAND.

By a Gentleman of the Island.

Loquor de legibus promulgatis, de quibus est integrum vobis: demonstro
vitia; tollite: denuncio vim, arma, removete!

CIC. OR. IN M. ANTON.

LONDON:

PRINTED FOR CADELL AND DAVIES, STRAND.

1807.

Printed by C. and W. Galabin,
Ingram-court, London.



ERRATA.

- Page 14, line 6, for *facie* read *facie*.
42, 12, for *agrieve* read *aggrieve*.
ib. 13, for *port* read *post*.
ib. 15, for *stigmatisie* read *stigmatize*.
73, 14, for *import* read *impost*.
140, 28, for *judiciarum* read *judiciorum*.
176, 1, for *worse* read *worst*.
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TO
HIS GRACE
THE DUKE OF PORTLAND.

MY LORD,

IN making this public appeal to your Grace instead of a private application, on the extraordinary situation of one of his Majesty's most valuable Colonies, I have to plead, as my apology, that communications and remonstrances of the most interesting nature, expressed in the most loyal and affectionate terms, have been made to his Majesty's ministers in vain; while we have been suffering, during ten years past, under the most grievous circumstances.

Hitherto, we have taken the ordinary methods of forwarding addresses to his Majesty, through the government of the Colony, to the Secretary of State for the colonial department. Sometimes we have had reason to conclude, that, from partial motives, they have not been transmitted at all; at other times, that they have been ac-

accompanied by unfair representations, as to their intention and tendency; or that they may have reached the hands of Ministers, not only under these disadvantages, but, at times, when important affairs of state have so engrossed their attention, as to exclude all minor matters from their consideration. At any rate, the total neglect of this country has been the consequence; until the dissatisfaction of all parties in the Island, and of the English merchants connected with it, has decreased its commerce, ruined its credit, impeded the progress of population, and prevented those golden calculations from being realised, which were set forth by a former administration, to induce the people to consider the acquisition of Trinidad as an equivalent, in some measure, for the expences of the war.

Under such circumstances, the right and the necessity of making this public appeal cannot be denied: and as your Grace has so recently entered upon the administration of the government, to make your Grace acquainted with what was the situation of this colony previous to your Grace's appointment is essential to *our* interests, and, it is to be presumed, must be acceptable matter of information to yourself.

Before I speak of the conquest of Trinidad, and of the effects which it has produced on the

Colony, and on its constitution and laws, it may be proper to give an outline of its antient government and jurisprudence.

The officers of the general government and tribunals were as follow.

The GOVERNOR was chief of the army and militia, and the head of the civil government. He presided at the *Cabildo*, or provincial council. He appointed and removed, at pleasure, the Commandants of districts. He appointed the officers of the militia, and he recommended military officers for preferment. He promulgated ordinances for the good government and improvement of the Colony: but these ordinances were confined to municipal cases and regulations of police; "which must be sanctioned with the assent and approbation of the *Cabildo*, or council; which was a sort of intermediate power between the Governor and people *."

The *Governor's court* had a civil and military jurisdiction throughout the island: but, in cases of law or equity, he was to be governed by the opinion of an "Assessor, or civil Lieutenant," unless he chose, at his own risk, to take the decision upon himself.

* Governor Picton's Statement to the Colonial Minister, March, 1802. Articles, "Legislature," and "Executive Government."

The **ASSESSOR** was the King's counsel, and was to furnish the Governor with legal advice in all cases of judicial proceedings, as well as the inferior Judges.

The **AUDITOR's** functions were similar to those of the *Assessor*: but the Auditor more properly belonged to the Intendant's department.

Both of the officers, last-mentioned, were required to be *Doctors of law*; and were appointed to give counsel to some of the other tribunals: as the Alcaldes, &c. and if the Judges did not consult those officers, and follow their opinions, they became responsible for their own decisions. Both these offices were held by the *Assessor*, in the late Spanish government.

The **CABILDO** was a municipal council, chosen, *originally*, from the most wealthy and respectable families. Their office is very honourable; but, it was sometimes acquired by purchase. They had a right to represent, and even to remonstrate, to the Governor in respect to the interior government of the country. They are said to have a right to control the Governor's conduct, when they thought any injustice was done to the community. The police of the town was under their control and direction.

They regulated the admission of Physicians and Surgeons to practice. Two members of the Ca-

bildo served by turn, monthly, and took upon themselves the immediate superintendence of markets, bakers, streets, the wharf or pier, &c. and the general police of the town; to defray the expences of which, they had a right to impose taxes on the town. This council distributed among its members several important offices; such as, *Alguazil-mayor*, or high-sheriff; *Alcalde-provincial*; *Procureur-general*, or Fiscal. The last-mentioned was a very important charge. The person who held it was not merely the *King's Attorney-general*, but an officer peculiar to the civil law. He did not always prosecute; but, after conviction, he indicated the punishment of the law to the crime; and which might be, and often was, mitigated by the Court.

Like the Chancellor in the English system, he was the *Curator* and protector of orphans, &c. and, finally, he was the expounder of the law, the defender of the privileges belonging to the town or colony, and the accuser of every public officer who infringed them.

There were two **ALCALDES** in ordinary, or Judges, the senior and junior; or they are called "of the first and second election." Their jurisdiction extended through town and country, where the parties had no *fuero militar*, or military privilege; but those who had, could

transfer their causes to the Governor. The Alcaldes of the first and second election carried on all civil and criminal processes, with the assistance of an *Assessor*; but he was not empowered to execute the sentence without the signature of the Governor, who is supreme Judge.

The *INTENDANT*, or Collector, was chief of the departments of finance and commerce, and exercised judicial powers. His tribunal had cognizance of admiralty and fiscal causes, and such suits as were brought for the recovery of money, either in the King's name, or against him. He was entirely independent of the Governor: and no public moneys could be issued without his express order.

The *ADMINISTRATOR*, or Contrroller, was subordinate to the *Intendant*; and, with inferior officers, managed every thing respecting the custom-house.

The *CONTADOR*, or Treasurer, and *Interventor*, were officers subordinate to the *Intendant*. The former kept all accounts and documents respecting the receipt and expenditure of the revenue; and was therefore a check upon the *Intendant*.

The *INTERVENTOR* superintended all public purchases and bargains.

The *COMMISSARIES* of *POPULATION* and distribution of lands were, likewise, attached to the government.

AN **ALCALDE** of the **HOLY BROTHERHOOD** had an ecclesiastical tribunal, of jurisdiction in all matters respecting the Church.

The **ALCALDE PROVINCIAL**: his tribunal had cognizance of criminal causes, when offences were committed in the country, or when the criminal took refuge there; and in other specified cases.

ALCALDES de BARRIO were petty magistrates; one for each of the eight divisions of the town, with a view to improve its police. They heard and decided oral complaints for sums not exceeding fifty dollars, exercised the power of committing to prison; and, in case of robbery, riot, and the like, they took cognizance of the affair. But, when they had done so, it was their duty to remit the proceedings to some of the other Judges; and, in all cases whatever, to give them information when they had committed any person to prison.

The **COMMANDANTS** of Quarters, of which there were twenty-eight in the Island, were to superintend the police, preserve the peace of the district, examine the passports of travellers, and suffer no strangers to settle within the limits of their command, without regular leave obtained from the Governor.

They were to prevent all smuggling, to certify that all lands petitioned for were vacant before they were granted; and, when required, put the owner in possession. And all contracts and sales of houses, lands, and slaves, were to be made before them. "They were vested with the authority of Alcaldes in ordinary, and of public Scriveners, to avoid, to parties remote from the seat of government, the expences and inconvenience of attending the issue of suits in town, and to facilitate them in passing and authenticating public instruments of writing on occasions of emergency."* They acted as Sheriffs, levied executions on property, attended and certified the sale, and collected the proceeds. They also took inventories of the property of intestates.

An **ESCRIBANO** was a writer of law-proceedings, and a *Notary-public*. His attestation, to all decrees and instruments of writing, was indispensably necessary to render them valid; and his office was a place of public record. "Three of these Scriveners were assigned in common to the tribunals."

The **CAUSES OF LITIGATION** were, generally, personal contracts, rights of dower, inheritances,

* See Governor Picton's statement to the Colonial Minister, March, 1802; article, "Courts of Justice."

and titles to land. Those, arising from personal quarrels, were generally decided in a summary way.

IN PECUNIARY MATTERS of *small* amount, the laws encouraged *summary* proceedings.

AN EXECUTION was had on bond in four days; that is, on the day after three days notice had been given: and in the same time on a note of hand, after the party acknowledged the signature, or after the same was proved.

Moveable property might be sold after giving nine days warning, provided it were three times publicly cried in that interval.

Landed property must likewise be cried three times, with intervals of nine days each, before it could be sold by virtue of execution. And ALL property taken in execution must be *appraised*, and *must not be sold for a less sum than half of its appraised value*.

There was an APPEAL to the audience of the Carraccas, if applied for within a certain number of days after the decree, in causes above a certain value; and an ulterior appeal thence to the Council of the Indies, in OLD SPAIN, upon security being given for the payment of the future costs.

CRIMINAL MATTERS. In cases of *petty crimes*, the cognizance of the proper courts might be

said to be final, and without appeal; and, most commonly, such cases were decided in a summary way: but crimes of a more serious nature were treated with more solemnity. A person learned in the law was always appointed by the Judge to defend the Delinquent. The trial was *private*: and the examinations and depositions were taken *privately*, in writing, by the Judge, at times most convenient to himself; at which the Counsel for the accused was allowed to be present. He had, also, every kind of indulgence granted to him in making his defence. Such suits were generally very *tedious and expensive when the accused was rich!* The condemned was entitled to an appeal, as in civil cases, upon giving security for payment of costs. There was, however, a virtual appeal in every capital condemnation; because a stay of execution took place, until the confirmation returned from the audience of the Carraccas.

Mr Nihell, the present *Chief Judge* of Trinidad, by his fourth answer, when examined in the case of Louisa Calderon, informs us, that "criminal cases were generally tried before the governor and assessor, in the Spanish time: for, although the *Alcaldes* were competent to take cognizance of criminal causes, yet, he never knew of any criminal causes being carried before them."

The LAW-AUTHORITIES referred to, and quoted, as governing the practice and decisions of the tribunals, are as follow.

1st. The SCHEDULE granted by the late KING OF SPAIN, which exempted Trinidad, in most instances, from the laws of the Indies, with a view to the encouragement of its population, by inviting settlers of all nations; but, in cases which were not provided for by this *Schedula*, recourse was to be had to the

2d. RECOPIACION DE LAS LEYES DE LAS INDES, or the general laws of the Indies. And *it is said*, that,

3d. The LAWS OF CASTILE were to be referred to, when those of the Indies were deficient. Lastly,—

4th. The LAWS of the CONSULADO DE BILBAO; which is the *commercial law*.

I may now proceed to the CONQUEST OF THE COLONY, which was effected in the month of February, 1797, and which is so circumstantially known, that I shall pass over the particulars connected with that event, and shall state only the consequences which have resulted from it.

The town of Port of Spain was entered without resistance, the Inhabitants having abandoned it, leaving the Terms of Capitulation to the Con-

queror, SIR RALPH ABERCROMBY; who granted free exercise of religion to the Persons, and protection to the Properties of the inhabitants; but declared, in his instructions to Judge Nihell, dated March the 1st, 1797, that "there was no stipulation in the capitulation* in favour of the Spanish laws in the administration of justice:" and the address of the inhabitants, presented on the 5th of April, 1797, also states, that Governor Chacon had "forgotten to demand the continuation of Spanish laws."

Sir R. Abercromby, therefore †, "merely continued them by circular letter," and appointed Colonel Picton governor, and John Nihell, Esq. chief judge; who, "in order to avoid the confusion which might result from *too strict* an adherence to the forms of *that* jurisprudence under an *English government*," was to receive instructions from Governor Picton, and was "to proceed in all causes, whether civil or criminal, without any Assessor; although it might be *contrary* to the form and spirit of the Spanish laws." He was also "required to shorten and simplify the proceedings, and to terminate all causes in the most expeditious and least expensive manner

* See Terms of Capitulation.

† Sir R. Abercromby's Instructions to Mr. Nihell.

that the circumstances of them will admit, according to the dictates of his conscience, the best of his abilities, and conformable to the instructions he should receive from Lieutenant-colonel Picton, although it should be contrary to the usual practice of the Spanish government."

These facts I wish to be strongly impressed upon the memory : for there are many who agree with the * author of a letter on the affairs of Trinidad, that, from the moment he (the Commander-in-chief) put his signature to the instrument of Judge Nihell's instructions, there was an end to every thing that had the semblance of Spanish law.

Thus Sir R. Abercromby, as though he could foresee, at least did every thing in his power to prevent, those unhappy events which have disgraced the colony, prevented its prosperity, disturbed the harmony, and divided the interests and affections, of the community. For, by this statement, it is evident how much it was in the power of the Governor and the Judge to assimilate the jurisprudence of the Courts to that of England; and to lessen the odium, soften the severity, and obviate the corruption, of which we have so long had reason to complain.

* Lieutenant-colonel Draper.

Why the wise and benevolent provisions of the experienced Conqueror were defeated is yet to be explained. It is known, that the Judge was suspended from the exercise of his office for a considerable time. The causes and motives for this suspension deserve inquiry. *Prima facie*, we should conclude that some high crime or misdemeanor had rendered him deserving of this degradation: as he was appointed "during his Majesty's pleasure." But, in Governor Hislop's proclamation, so late as the 3d of April, 1806, it is declared, that, "as it doth not appear that his Majesty hath been pleased by any act whatever to annul or make void the said commission, the said John Nihell shall continue to act therein, in the same manner as he did immediately after the capitulation of the said Island, during his Majesty's pleasure," &c. Now, this is the dilemma: if, from his conduct, the Judge deserved to be suspended from his office, (which he could not be, legally, unless it were his Majesty's pleasure,) then he became an improper person to be entrusted with such high functions again; but, being restored to the exercise of that exalted and honourable office by the present Governor, and his Majesty's pleasure not being known to the contrary, the presumption is, that his judicial conduct was uncensurable. Then, how is this to be reconciled to his suspension? What could

be the inducement to a removal of this Gentleman from his judicial situation and its awful responsibility?—a transaction which has occasioned such direful consequences*.

The jurisprudence of the country was, consequently, reduced to that state, which humanity and wisdom, in vain, intended to avert. The only lawyer, the Spanish assessor, had been long since driven away. The only judge appointed by the conqueror (and who knew not only the language, but the law, as far as could be known

* It is extraordinary, that the Chief Judge did not follow the example of the four assistant-judges of Jamaica, who appealed to the Privy-Council upon their being suspended from office by Governor Dalling. The noble conduct of his Majesty's Council on the 23d of March, 1781, *is worthy of the imitation of succeeding Privy-Councils*. The minute, of the representation to his Majesty on the charges against Governor Dalling, sets forth, that, "the whole of his conduct, we are concerned to find, has given occasion to a variety of contention and altercation, and disturbed the peace and harmony of your Majesty's subjects in Jamaica. It nevertheless becomes our duty humbly to observe to your Majesty, that a due, impartial, and uninfluenced, administration of justice, in your Majesty's colonies, is a matter in which the lives and properties of your Majesty's subjects are most materially interested; and that the interference of a Governor, in any proceedings in a Court of judicature, which do not come in due course and officially before him, and more especially pending the cause, is highly improper and ever to be discouraged."

by serving the office of *Alcalde* two years) was suspended from his office, as we must now presume, without due cause : and then, forsooth, it is complained, that there is no Lawyer, no Assessor *, no Judge!

The following passage is worthy of remark, as explanatory of the deficiency of legal knowledge in the Courts of justice in Spanish Colonies. " A Counsellor or two have sometimes resided at New Orleans, but being generally found obnoxious to the officers of government, they have not continued there †." But, why are Lawyers obnoxious to the officers of government, while the *Escribanos*, who are ignorant pettifoggers, continue to be encouraged and employed? The answer will not bear to be expressed. And I

* How shameless and hardy must be the mind of that man, who can complain of the want of an *Assessor* or Spanish graduated lawyer, when it is so well known, that Don Julian Padilla, a relative of the widow Centeno, was ordered to leave the island, for no other crime, than that he was an advocate, whom the Spanish inhabitants petitioned might be allowed to reside and practice in the island. A Spanish gentleman, who promoted the petition, was told by the Governor, that he wanted *no Assessor* ; and, making use of some coarse epithets against *all* lawyers, he ordered, that this advocate should leave the island in a few hours!

† History of Louisiana.

hope it has never been applicable, to the deficiency of law-officers in the tribunals of Trinidad.

From the suspension of the Chief Judge, judicial affairs, which had never been entirely removed, wholly returned to the court of the Alcaldes; before whom, *trifling* causes are determined in a summary way, and without any written process: but, in cases of greater consequence, the process is carried on by petition, declaration, replication, rejoinder, &c. reiterated, until the Auditor finds that the parties have exhausted all their ingenuity on the matter. At this point, each party adduces proofs, which ought to be taken by an Escribano, who is always a notary public and keeper of the records. The parties are next allowed to make their remarks upon the proofs, by way of *Escrito*, and to bring forward opposite proofs. All this is done in the Spanish language, which the majority of the people do not understand; and, yet, they are obliged to sanction the same by their repeated signatures. Three days, or more, according to the stage of the process, is allowed to serve each party with each part of the proceedings, and to answer the same; and this service is done by the Interpreter. Hence arises the continual and vexatious delays, the multiplication of papers, the

chicane of the Escribano, the accidental or intentional mal-interpretation of the language and the law; and the opportunity for bribery, both with the Interpreter and the Escribanos, who will receive bribes on both sides, and contrive, with each other, how to prolong one suit, to serve a party; or rapidly run through another, to hurry on the destruction of any victim, devoted to the ambition, jealousy, or hatred, of a Governor or a faction. And which mal-practice sometimes occasions the ruin of both parties: although he who bribes the highest, will, when it is too late to prevent his ruin, obtain a decision from the Judge, who now considers the cause as mature, and issues his decree; which the Governor confirms by his sign manual, where the cause depends before him.

It has been shewn, already, that, under the Spanish Government, there was an appeal from the tribunals here, to the audience at the Carracas; and, ultimately, to the Council of the Indies in Old Spain: but, since the capture, there is an appeal from these Courts to the Governor, in causes where the matter in dispute is of value above £300 sterling; and from him to the Privy Council in England, when the value is above £500. That this opportunity of appeal has not, hitherto, much mended the matter, may be seen

in the long protracted and ruinous cause of John Dawson against Barry, Black, and Co.; and would have been seen in many more cases, if the papers, necessary for an appeal, were not so difficult to be obtained, as to impede, and almost wholly obstruct, the applications for redress to that august Tribunal, as is well known from an application lately made to the Privy Council.

The Court of the Alcaldes is that, in which Sir Ralph Abercromby says, he had "received serious complaints of the extortions practised by the exaction of excessive fees, and the mal-application of useless and unnecessary proceedings in the administration of justice by the Escribanos, Attorneys*," &c. And he empowered Judge Nihell "to suspend from their employments, all Escribanos, Attorneys, or other officers, who shall be guilty of extortions, contumacy, or contravention of" the said Chief Judge's decrees!

But, who are the Alcaldes of the first, and second election? and how are they appointed, to whom the powers of the Chief Judge were transferred? and to whom the characters, fortunes, and lives, of his Majesty's subjects were to be submitted? are they Spaniards of the first respectability, education, and property, in the

* Vide Sir R. Abercromby's Instructions to Judge Nihell,

Island?—for, surely, we should expect, that they would be chosen to such illustrious situations for their extensive knowledge, amiable and dignified sentiments, and independent fortune; but it is not so! are they elected by the voice of the people?—No!—They are elected by the members of the Cabildo from among themselves! and the *sine qua non* of their qualification is the Spanish language. For, were they, even, most eminently qualified in those points, which, in other countries, are so necessary to form the judicial character; yet, they would not be qualified without the Spanish language; which, therefore, supercedes every other qualification. Nay, that “*upright Judge and virtuous Magistrate*,” St Hillaire Beggorat, has declared, on oath, that, to be an Alcalde, it is not necessary even to read and write*; although he is to decide according to law!—

Quamvis jurato metuum credere tibi testi—

Juven. Sat.

And this will explain how the corrupt Escribanos can govern the decisions of those Judges, to whom the powers were transferred, which Sir R. Abercromby had committed to Judge Nihell.

* Vide Evidence in the Case of Picton for Torture of Louisa Calderon.

But, the Alcaldes *must* understand the Spanish language, or the Spanish Escribanos could not carry on their *trade* with them. And who are the inhabitants, *not being Spaniards*, who best understand the Spanish language?—They are men of all nations ;—English, Irish, French, Corsicans, &c. who, taking the advantage of the indulgence and protection of the Spanish government, “ found an assylum in Trinidad *;” often taking with them their mortgaged negroes, to the ruin of their just and generous creditors in Granada, St Vincents, St Lucia, Martinique, Guadaloupe, Antigua, Montserrat and St Kitts†”. And, with property thus fraudulently possessed, they acquired consequence about the government in Trinidad ; and, seeing the road to preferment by the Spanish language, they soon became accomplished for the exercise of those judicial functions, which the cause of their early settlement in the Island most fitted them to disgrace !

* Colonel Draper’s Letter,

† For the confirmation of this statement, I appeal to Messrs Black and Beggurat, *honorable* members of the Council and Cabildo ; who are from some of those Islands, have long resided in Trinidad, and, *than whom*, none better know, that it was a place of refuge for fraudulent debtors and public delinquents.

Æthiopem Albus derideat.—

Jupen. Sat.

These are the persons best acquainted with the Spanish language : for, those who have settled in Trinidad since its conquest, have neither had the leisure, inclination, nor necessity, to become masters of that language ; having, year after year, expected the natural death of such an abominable system.

The inhabitants of Trinidad, who have made such a disreputable exit from the islands which I have named, will not thank Colonel Draper and Mr. Gloster*, for reminding me of their

* A confirmation of this statement is given in a Letter to the Earl of Buckinghamshire ; printed by D. N. Shury, Berwick-street, Soho, London. The following passage is a specimen of the author's *gentlemanly style* of writing, p. 28.

“ He (Col Picton) knew that Trinidad, like antient Rome or modern Columbia, could not boast of its original founders *”. To this he makes the following note.

“ The inhabitants of Trinidad will not be offended with this comparison. I speak of the original establishment of it, and its continuance until 1797 : Rome, whose original settlers were a rude rabble of *rogues and whores*, headed by two *bastards*, with a *brute* for a *wet-nurse*, was afterwards the mistress of the world. I will allow that there were some decent and well-regulated English families settled in Trinidad, and some honour and distinction removed thither from the French islands, previous to the capture ; but its original establishment was *gross and impure* ; and the *filth* thrown in after the French revolution in 1789, and the events of Granada and St Vincents', in 1795, beggared all description.”

situation: but, however ignorantly and innocently Colonel Draper may have excited this declaration, it is too true, that, instead of the government having been at any time perplexed by the persons alluded to in the law of Granada, made against "Trinidadians," it is, on the contrary, a fact, that many of the persons therein described have occupied, and *continue to occupy*, places of trust, confidence, and authority, in the country and about the government, and are some of those very persons with whom the Colonel became acquainted during his short stay in Trinidad; and, of whose characters, he has been shamefully deceived into the very high opinion which he has described: they are, in truth, some of the very worst of those characters;

This very scurrilous letter is fabricated by a Mr Archibald Gloster, who displayed great talents at Martinique in favor of a Mr Webb, and, this is the same Mr Gloster from whom Mr Garrow, in vain, endeavoured to extort proofs of legal learning on the trial of Colonel Picton for inflicting torture. Mr Gloster is Attorney General, and a member of the council of Trinidad; and some of the very *filth*, that he so vulgarly describes, is among the most intimate of his friends in that Island; and he is not, like Colonel Draper, ignorant of their true character.

Hic tu quâ latitia perfrurere?—cùm in tanto numero tuorum neque audies virum bonum quemquam, neque videbis.

Cic. in Catalin.

who, he very properly states, dare not return to Granada and other islands : and the facts are so well known, that, upon causing inquiry to be made on the Royal Exchange, or in those islands, there will be found, among the persons longest connected with those places, individuals, who, having suffered by the conduct of those characters, will not hesitate to declare their names. And the characters alluded to will not venture to complain of the severity with which I treat them. No !—They will be too conscious of their turpitude, and too apprehensive of having their names made as notorious to the world as they are to the colony; and, consequently, of being removed, as they ought to be, and rendered inadmissible in future to any place of trust and authority there.

It has been shewn, that the Alcaldes are elected by, and from among, the members of the Cabildo. They are, also, to be confirmed by the Governor.

But, how is this *illustrious* body elected now? *
Formerly, they were appointed by the King of

* The Cabildo or Municipal Council was composed, under the reign of Charles the Third, of eight *Regidores*, two *Alcaldes*, a *Procurator General*, and a public *Escribano*. Governor Picton increased the number to twelve. This was illegal, as a Governor was not authorised to make such appointments. It

Spain : now, they elect each other : filling up a vacancy as it occurs : and the seat may be, and is, often, bought ! judge then of the nature of this *illustrious* body ; which is composed of Spanish, French, and Irish. Castro, an Escribano, is a Member, and a Regidor, and purchased his place. And St Hilaire Beggorat, another equally *illustrious* Member, states, on oath, that Castro was a common soldier, and servant, and barber *. There is, however, no doubt, if Castro were examined on oath, as to the qualifications of Mr Beggorat, that he would return these compliments :

Nihil est enim quod minus ferendum sit, quàm rationem ab altero vitæ repossere cum, qui non possit suæ reddere.

was an exclusive prerogative of the Spanish Crown. But, in order to be uncontroled by this municipal Council, Governor Picton assumed the powers of a Spanish Monarch, and conferred the dignity of Regidor on Monsieur Beggorat, Senors Roblez, Farfan, and Bonteur : and on the absence of Mr Shaw, he added Mr Handley. By this means he produced a majority in the Cabildo : whereby he directed all its movements, and at his pleasure commanded its support, to all his unprecedented proceedings. By the same means, he easily obtained those unqualified expressions of approbation, which have been *falsely imposed* upon the British Government, and the public, as proofs of regard, admiration, and satisfaction, from the antient Members of the Spanish Municipal Council.

* Vide Picton's Evidence in Torture of Louisa Calderon, p. 87.

Although we are not to expect that purity and wisdom from the origin, appointment, character, and qualifications, of these Judges, which, Englishmen look for in the exercise of justice; and, therefore, however prepared we may be for instances of partiality, and extraordinary modes of proceeding, yet, we should not expect such a summary, secret, and prejudicial document and process as in the following instance; with the original of which, and an account of the whole case, I have been favored by a Gentleman lately from that country.

“ For administration of justice, A. B. will appear at the office of the Alcalde of the second election, on Monday next, at ten o'clock in the forenoon.”

“ Friday,”— Signed (“ John Black.”)

“ The following answer was made on the occasion.

“ A. B. will thank Mr Black to be so kind as to inform him in what cause, who are the parties, or whether he is to attend as Plaintiff, Defendant, or Witness, at the office of Alcalde of the second election, on Monday next, in order that A. B. may

attend properly prepared to do that which may then be required of him."

To this, no reply was given ; consequently, the party cited appeared, perfectly ignorant of what awaited him, and without witnesses or defence ; while the prosecutor had, of course, taken every measure to ensure success by previous conversation with the Judge ; who, without any written process, heard the parties, and in the most summary manner, and contrary to every principle of truth and justice, ordered the Defendant to be imprisoned ; until he should pay above a thousand dollars ! notwithstanding, that a verbal process is only legal for small sums, and that three days, or more, according to the stage of the proceedings, are to be allowed for replies, sentence, execution, &c. the Defendant in this case thought it best to submit to the injustice, however great, in order to avoid the jail and to gain time for the payment ; so as to obtain, in the interim, the means of justifying himself, and of defeating the ruinous plan which was contrived against him. And, to the astonishment of the same Judge, he at length succeeded in proving, that the Plaintiff was the Debtor instead of the Defendant. But it was not until two years, or more, after Mr Black was out of office, that the Defendant could obtain a sentence in his favor ; although, in an unjust

cause, the process had been so summarily concluded against him. And, even, at last he obtained the sentence, alone, for he never could get execution thereon ; although, he, at the suit of the very party, had been so unlawfully imprisoned. And, to this day, the money due to him is yet unpaid.

However extraordinary it may appear, yet, sometimes, recourse is had to military force to carry into execution the decrees of these Tribunals.

The Gates of Orange-Grove Estate were hewn open, and the Gentleman in possession was turned out, at the point of the bayonet, by a party of regular troops. And his British Majesty's soldiers were employed, on another occasion, to beseige an old widow Lady and her Daughters in their own house, in order to enforce the sale of it ; concerning which there was some dispute. And for three days, or more, the number of troops was regularly increased every day in this disgraceful duty, intercepting the supplies of fire, water, and food ; until these unprotected and friendless females were actually starved out, to give place to one of the most outrageous and abandoned women that ever disgraced the House of an English Governor.

Quis enim Miles fuit, qui Brundusii illam non viderit?

These are a few specimens of the manner of proceeding in those tribunals, which were called * “that assemblage of men of justice of which the majority doubtless offered a corruption of which no other colony could furnish examples; and whose iniquities and horrors have exceeded those of all governments known to us: those shameful and permanent violations of all the laws of the Indies.” They continue to give a strong picture of their “more than ordinary corruption.”—“Murders and robberies committed with impunity, *Widows* and *Orphans* despoiled, inheritances plundered, Creditors and Debtors equally ruined in affairs of the most simple nature; unfortunate Colonists, scarcely arrived at the moment of enjoying the fruits of long and painful labors, which would have afforded the means of existence to their families, devoured without pity on the most trifling discussion like a victim fattened till then only for that purpose! in short who can deny that the disorder in this point had increased to such a degree, that a man destitute of employment or property might attempt any thing against

* Vide Address of the Inhabitants to Governor Picton, April 5, 1797.

a proprietor, because the latter, convinced before hand of the usurpation of part of his property, and of the loss of the remainder by the excessive costs of justice, would have rather submitted to the most violent assaults in his house or person than have offered any resistance to them."

It is worthy of remark, that in the list of subscribers to this address, (which, you would suppose, represented all the virtue and wisdom of the Colony, crying aloud for an abolition of the antient, and the introduction of a new and better, system,) there are to be found the names of men, who, since thus deprecating the old mode of administering justice, have felt no hesitation or qualms of conscience to become numbered among that self-same " assemblage of men of justice," whose offices and mode of administering the laws they only abhorred and decried, until the opportunity offered to succeed them; when, they would willingly make us believe, that *their* virtues and wisdom effected a reformation in the tribunals; which, they consequently think, it is *now* unnecessary and dangerous to abolish. For, the last Petition in 1805, which represents the affairs of the Island to be in a worse situation than ever, is not signed by these men; and, the subscribers to it might with propriety have added, in the very language of those time-serving gentle-

men, (though not with the same motive,—to displace and succeed them,) “ You wish to relieve us,—but how can it be effected? if, with that intent, you are obliged to have recourse to several of *the same* men of whom we complain, whose interest it is to support each other, and to bury in darkness what we are desirous of making known to the world * !!!”

I do not deny, that this was well applied to the men for whom they intended it: but, every impartial man in the Colony will support me in asserting, that, it is as exactly merited by those men, who said it to disparage their predecessors; and who, now, oppose the introduction of the British Constitution, because it will deprive them of the power and authority* which they obtained by such unworthy means.

Besides the Alcaldes of the first and second election, there are Alcaldes de Barrio. These are Magistrates of the Town: they are eight in number:—one for each principal street and its neighbourhood.* They are appointed without regard to nation, language, or occupation; being either Spanish, French, Italian, or English;—Merchants, Shopkeepers, or Dramsellers. So that it often happens there is a Spanish or French

* Address to Governor Picton, April 5, 1797.

Alcalde in an English neighbourhood, and an English Alcalde in a French or Spanish Barrio.

The confusion, occasioned by this circumstance, is completed by the Alguazils; who are armed Constables, generally of the lowest class of Spaniards; and, often, coloured men, or negroes, capable of every degree of chicane, and ready tools of tyranny and rapine.

These are the serving officers of the Alcalde de Barrio, of whom I shall say no more, than, that they are worse than useless; for to appoint them, is only multiplying Magistrates without extending justice; as their powers are too limited to be useful, when in proper hands, and too great for the hands in which they are generally placed.

The several districts of the Country have their Commandants, who have, also, a species of judicial power. All pecuniary causes, not exceeding one hundred dollars, are heard and determined by them. When the sum of money in dispute is greater, they begin the process, collect the evidence, and transmit the whole to the Governor, to be decided by the other tribunals.

They cannot inflict corporal punishment, except upon slaves; but, they have the power of arresting and imprisoning, when they think it necessary: and, this last act of their authority is

all that is necessary, to enable them to tyrannize over the minds, at least, of the inhabitants of those quarters in which they command.

Many of the inhabited districts are at a great distance from the seat of Government; and, even, those that are near feel the influence of these petty tyrants; for, as all the disputes between the labouring mechanics, free people of colour, Spanish Peasants, called *Peons*, and the proprietors of estates who employ them, are heard and determined before the Commandant of each district, it gives the Commandant an influence over these low people, which he seldom fails to exert: for, by upholding them against their employers, he can command their gratitude in return; not only by always getting their services in preference to his neighbours, but by exacting it from them lower than at the ordinary rate. And, the *Peons*, long habituated to this sort of submission, besides thus affording their labor, purchase the favor of their tyrants, by a constant supply of wild game for their tables, in such quantities, as at times to supercede the necessity of buying butcher's meat for their families. And, should the Commandant's house or grounds require any extraordinary exertion of labor, it will not be allowed to proceed in the gradual manner, which, the ordinary division of

hands through the quarter would require ; but, to the general injury of the neighbouring planters, they often find their hired workmen absent, when they expect their work nearly finished ; and, on returning to their task, the imperious necessity of obliging the Commandant of the quarter is urged, as their reasonable, however unsatisfactory, excuse.

Do not let it be doubted, that there is this slavish submission to these Commandants. Let any indifferent planter from that Country be asked the question ; but, take care that he is not an intimate friend of one of these tyrants : for he will be unwilling to expose his friend, or cause him to lose that influence of which he feels the secondary benefit. The supreme authority, being obliged to repose trust and confidence in these deputy Governors, unwillingly listens to remonstrances against them, and is often imposed upon by plausible representations of the turbulent and refractory state of the inhabitants. And these plausible representations are sometimes confirmed by the conduct of some unhappy, imprudent, or violent individual, whose anger, not wholly warranted by the degree of injury he may have received, is wickedly fomented into some act of incorrectness, in order to furnish a pretext for general severity, and to make it safer in future

to bend the neck to the petty despot, and groan in secret; rather than by resistance incur the resentment of men possessing such power and capable of making such a use of it.

For to be heard is almost always the only satisfaction to be obtained, and to be listened to graciously is almost sure to excite their watchful and unceasing revenge.

The serving officers, of these Commandants, are the *Alguazils*; of whose character every Spanish tale or history gives us striking pictures; three of whom, MR LANGTON, who styles himself *Provincial Mayor*, has sworn "to be men whose oaths no Tribunal would take *."

This unprincipled class of men carry on a most nefarious trade with some of the worst disposed Commandants: such, for instance, as were outlawed Emigrants from other Colonies. No

* Vide Evidence, in Picton's Trial, for inflicting Torture, p. 125.

Notwithstanding Mr Langton's opinion of these men, he continually employed them during his office of *Alcalde*; and found them very worthy of his confidence, when they could be made subservient to his purposes. And he complained of their depravity, for the first time, when they were about to perform a public duty, on being ordered to England, to further the principles of justice, as witnesses in the Court of King's Bench, on the trial of Governor Picton for the Torture of a young Female.

man will be hardy enough to provoke the proof of such injudicious appointments, by denying that these as well as other places of trust and power have been committed to such polluted hands.

Rewards are appointed of different sums of money, from two to sixteen dollars, to induce the Alguazils to apprehend and bring before the Commandants such Negroes as may be wandering about at night, or may have run from their owners.

Here is the source of a variety of malversations between the Commandant, Alguazil, and idle Creole Slave. The Slave proposes to the Alguazil, or the latter entices the former, to meet him, and submit to be carried before the Commandant, even at the risk of the whip, to share in the reward, which the owner is obliged to pay, to the Commandant, on his Negro being restored to him ; whereby, loss of money is added to the loss of labor.

Often times, a newly-purchased African, smoaking his tobacco in the path at the front of his Master's Estate, where he may be sitting to be amused with what passes on the road, is seized by the Alguazils, (who are on the look out for this purpose,) carried before the Commandant of the Quarter, who is told that he is *a runaway* ;

and the untaught Negro, not even able to tell who he belongs to, is dragged to jail, with his arms tied behind him, and there remains a prisoner ; until, being missed from his labor, after his allotted hour of indulgence is expired, the owner sends to the prison, pays the reward of iniquity, which is remitted to the Commandant, to be divided, as usual ; while the innocent African, unable, from ignorance of the language, to defend his conduct, receives the punishment for his absence, by a whipping, more in justice due to those who dragged him from his home and committed him to jail.

But, in order to prevent as much as possible this shameful practice, and to leave the Slave without excuse, it is ordered, that all Slaves shall have a pass from their Master when they have leave of absence or are sent on business.

Even this does not protect them ; for on being stopped on the road by an Alguazil, and producing the pass, the daring ruffian often tears the paper to atoms ; and, as in the other cases, the Slaves are dragged to jail, after being kept out long enough to induce the suspicion of their having, from idleness, absented themselves too long or lost their pass. This outrage is generally practised upon boys and females, who are

easily intimidated from resistance by the armed Alguazil.

The Commandants of Quarters are not appointed annually like the Alcaldes of the first and second éléction and the Alcaldes of the Barrio ; but they are, like the latter, of different nations ; and, therefore, often, as little adapted to the administration of justice in their neighbourhood.

They are not elected by their neighbours, but appointed by the Governor ; and, therefore, it often happens, that the man, who may have interest enough at Head-quarters to obtain the appointment, is an intriguing character, who from that very quality may be a very noxious person to his neighbours. And it may be easily understood, how such a man will find every difficulty to encounter in the exercise of his office ; so, that, if he even have the intention to do justice, he will find numerous obstacles in his way, while a man, beloved and appointed by his neighbours, would find abundant support and assistance. Like the Alcalde de Barrio, he will, also, find the difficulty arising from not being of the same nation with the majority of the Planters in his district : therefore, an Interpreter must be employed, which opens another door for corruption ; and, when it is considered, that, in one cause,

there may be four languages in use, viz. English, French, Italian, and Spanish; in which latter language the proceedings are lastly written, and in which, neither of the parties may be so acquainted, as to detect the corruption or correct the blunders in the proceedings; what but injustice, and, at the least, disgust, must be the consequences. And, as these Commandants can be removed as often as the Governor pleases, it must be evident, that they can be always tools of his power, and that he will carefully appoint such men as may best serve his purposes: nor does it follow, that, while we have an English Governor, the proper influence of an English Government shall be felt throughout the Colony; since it is not reasonable to expect, that English, Spanish, Italians, and French, who are Commandants of Quarters, can conduct their affairs upon one and the same principle. There can be no uniformity in their decisions; but, on the contrary, as the Spaniard, ignorant as he may be, will yet be the only man who can, in any degree, adhere to the established order of things, so the others will not only act differently from them, but also from each other. Judge, then, of the confusion, which every day must exhibit in such a gallymaufry of Government!—

It has been stated, that Commandants have the power of arresting and imprisoning when they think it proper or necessary. This, no man will deny, must give them great influence over the apprehensive minds of their neighbours; as its effects are too often experienced by those who incur their displeasure, either by not flattering their vanity, not serving their ambition, opposing their power, or exposing their mercenary corruption.

An English freeholder of considerable property was confined in the stocks, without just cause, by a Spanish Commandant. And M. Noel, without stating any crime in the mittimus, imprisoned a man in the common jail, to remain their "jusqu'à nouvel ordre."

"Il est ordonné à l'Alguazil Pierre Guard de conduire à la Gréole le Mulattre, Dourand, pour y rester jusqu'à nouvel ordre."

"Carenage." (Signed) "En. Noel,"

"Le 4 Fevrier, 1803." "Commandant."

The following quotation from the Laws of the Indies proves, that such a proceeding was as contrary to the Spanish as it is to the English Law.

"Law 6th, tit. 6th, Book 7th. *Recopilacion de Leys de Indias.*"

“ The Jailer must keep a book, in which he must enter the names of the Prisoners, of those who ordered them to be taken up, of those who executed the order, the cause, and the day ; he must give an account of the same to the Judge ; nor trust the keys of the Prison to Indians or Negroes, under penalty of corporal punishment, or of making good the damage by his person or his goods.”

The Commandants of distant quarters have it much more in their power, than others have, to annoy their neighbours ; on account of the difficulty there is in getting to Head-quarters, when there is no other mode of travelling but by water.

Here the coasting-vessels are prevented by the Commandants from conveying passengers without a pass, under various ingenious pretexts, urged by the Commandants to the Government ; and admitted, because some of them are very plausible and may be useful : but the Governor is not aware of, or does not know how to remedy, the evil. It is, however, of a serious nature to the Inhabitants ; for, thereby, the Commandant is enabled to refuse every one the means of appearing before the Governor, who would be likely to complain of his partiality ; or demand justice against the shameful acts of turpitude to

which opportunity tempts, and distance from the seat of Government enables them to commit with impunity.

The Captains of the coasting-vessels, sometimes, have properties or families in the quarter which they frequent ; or are, in some way, so circumstanced, that, they may be made so to feel the influence of him, to whom they are to deliver their passes every voyage, as to render it worth their while to prefer the favor and attend to the order of the Commandants, rather than to run the risk of conveying either the agrieved persons or their letters to the post. The same Commandant, who may have the ear of the Governor, so as to be enabled to stigmatise and prejudice any particular Inhabitant as cabalous and refractory, can also produce such an, equally, evil effect against the Coasting-Captain, as to render him unfit for the employment of the owner of the vessel ; who, *as a Merchant*, has *a variety* of motives for not employing any man, who can be obnoxious to any, even the most distant part of the Government.

But, the worst effect arising out of the unauthorised powers, assumed and exercised by the Commandants of distant districts, takes place among the Slaves ; upon whom alone, I have already stated, they are allowed to inflict corporal

punishment. And, as though by the exercise of this power in particular, they would make up for the loss of such a gratification in general, they go lengths, which, it might be expected, humanity would forbid and shudder at, even where ignorance does not perceive folly and injustice.

Sickness has always taken place among Negroes who have been brought from dry and long settled Islands; and, more especially, among new Slaves from Africa, employed near swampy places, or in clearing wood-land, and opening virgin soil.

The diseases consequent thereto are almost inevitable, in some degree, if the cultivation of the country is to be extended or improved: but these diseases often terminate fatally, when other causes are added, which might be avoided: such as the scanty allowance of food, even if it be good: the bad quality of it, even though enough be allowed: or the too long continued use of the same diet, even though both quantity and quality be unexceptionable. Add to these causes, scanty cloathing, bad lodging, or even good houses erected injudiciously on moist grounds, or in cold damp situations; neglect, and want of medical aid in sickness; and, instead of wine and proper nourishment in convalescence, too early fatigue and exposure to the elements.

These circumstances, arising from either avarice, economy, poverty, or ignorance, sometimes occasion a great mortality among the Slaves on particular estates; while all the rest, in the neighbourhood, are healthful. On some estates, where none of these causes exist, but where the Manager is contriving to acquire a character for indefatigable industry, by exciting the public attention to an *unusual* quantity of labor performed, in proportion to the strength of the people employed, there will, sometimes, be as great a mortality from the great exaction of labor, and the severity necessary to produce it, as there would be, were all the causes, before stated, combined. But, when, from any of these causes, this unfortunate situation of the Slaves is produced; the Proprietor becomes alarmed at losing a Negroe or two every week, for many weeks together; until he sees his list diminish so fast, that he apprehends the annihilation of his whole gang, and foresees his approaching ruin. And that which he would prevent is accelerated by his gloomy air or irritable state of mind, which evinces itself to the Slaves in his petulancy towards them; and, added to the other causes of their discomfiture, increases their general *chagrin*, and deepens the despondency of those, who, by degrees, are dropping into the grave.

As the foundation for disease may be laid long before it is perceived, because the human constitution is able to resist, for sometime, the influence of many very noxious causes; so it happens, that the effects do not become evident until their causes have long past by, and, therefore, are not suspected: and, indeed, even were some friend to hint to the Planter the sufficient causes already stated, he would, at least pretend, not to believe it; and would assert, that such causes either had never existed, or, that they were incapable of the effects described: or, if unable to account for such havoc, he, in vain, racks his brains to satisfy himself and his creditors, whom he finds it difficult to appease, when, by these losses, he becomes unable to pay them. But, in the course of his researches for the hidden cause, in order to check or prevent it in future, he either recollects, or some suspecting person reminds him of, the secret malignity of revenge and the silent powers of poison, or excites his apprehension of Obelism or sorcery.

Perhaps, the consciousness of unmerited severity towards some high-spirited Slave encourages the suspicion; while the odd sayings, quaint expressions, peculiar manners, or cunning conduct, of some old man or woman, together with what they consider as certain means of divi-

nation hung up about their houses and grounds, as they pretend, to detect and prevent thefts, contribute to involve these poor wretches in the suspicion of poisoning or sorcery. And if at any time they have, for amusement, or to impress the younger people with respect, pretended to perform cures by amulets or charms; or, from their experience in the weather and winds, like other old people, foretell the success of the crops, and diseases that would happen among the live-stock of the Estate; all this is brought to recollection, and the miserable creatures are prejudged and already condemned for their supposed supernatural powers.

The folly, credulity, or wickedness, of the white people in the punishment of the supposed crimes of these poor wretches, sanctions and encourages the absurd notion among the other Slaves; produces a real apprehension of such diabolical influence, and occasions them, thenceforth, to attribute every untoward event upon the Estate to some such irresistible cause. And when once such an impression is made, the whole neighbourhood becomes affected by it: the sick despond, and are even neglected in some cases, because they are ignorantly considered to be under such influence as no human art can resist or remove.

The power of the Commandant to inflict corporal punishment is now had recourse to, and is exercised by these Magistrates, sometimes, in the most inhuman manner; for, the *question* or TORTURE is applied, with the absurd expectation of thereby ascertaining truth, in order to punish *supposed* guilt*.

Notwithstanding torture is abolished in every Christian Country, it has been in frequent use here, since we have been under the British flag; aggravated, too, by the invention of the most brutal cruelty.

If the proofs were not too clear and strong to be beyond doubt, I should apprehend the disbelief even of the most credulous; but, I hope, the generous repugnance to encourage so harsh an opinion of human nature, as the belief of this

* I do not mean to deny, when I say *supposed* guilt, that a case may occur, in which a vindictive Slave may exercise his vengeance by means of poison administered to a severe Master, a faithless Wife, or a hatred rival; or that a female may be actuated by the same deadly revenge. But it is not in nature, for one human being to exercise revenge upon others who have not excited it: therefore it is absurd to suppose, that a Negroe will sate his revenge upon a number of his fellow-slaves and associates, because he has been severely treated by his Master or Manager.

fact involves in it, will not prevent as much credit from being given to it as may produce a proper inquiry.

One species of torture has already been proved to have been inflicted by order of GOVERNOR PICTON; yet Mr BEGGORAT would willingly adopt this heinous act, by proving, on oath, that he advised it.* *Quid enim interest inter suasorum facti, et probatorem.* But, even since that affair, the shameful example has been followed by Mr BEGGORAT's friend and successor in office, and imitator in cruelty, Mr BLACK, in the case of *Modeste*. And, in the quarter of *North Naparima*, a naked Slave was placed on a nest of stinging ANTS, untill the excruciating agonies of such exquisite torture nearly extinguished life! — Ought we to feel surprise or complain of conspiracies and insurrections among a class of beings so cruelly oppressed and brutally tormented? —

*O conditionem miseram non modo administrandæ, verum etiam
conservandæ reipublicæ.*

CIC: OR. IN CATALIN.

* Vide Evidence in Case, Picton, for Torture of Louisa Calderon.

There are persons weak enough to attempt the extenuation of the cruelty of torture, for no other reason, than, because *the picket is used in the army.*

How mistaken was the MARQUIS BECCARIA, in saying, that "torture has not been thought necessary in the laws of armies, composed chiefly of the dregs of mankind." Well may he exclaim, — "strange phenomenon!" when he says, "that a set of men, hardened by slaughter and familiar with blood, should teach humanity to the sons of peace!"

Had this author written in *these* days, this exclamation might be taken for severe satire on *some* occasions.

Those who defend torture, because it is used in the army, ought to be reminded of the difference, between torture used as a *punishment* for the *guilty*, and as a means used to *extort evidence* from the *innocent*.

Shocking to relate! — it is for the last cruel purpose that it has, in general, been used in TRINIDAD. As the use of torture, in that Island, has revived the consideration of it in this country, I will repeat some of the remarks of Beccaria, from his Essay on Crimes and Punishments.

“ What is the political intention of punishments?—to terrify, and be an example to others. Is this intention answered, by thus privately torturing the guilty and the innocent?” p. 59.—
 “ Another intention of torture is, to oblige the supposed criminal to reconcile the contradictions into which he may have fallen, during his examination.” p. 61.

“ The examination of the accused is intended to find out truth ; but if this be discovered, with so much difficulty, in the air, gesture, and countenance of a man at ease, how can it appear in a countenance distorted by the convulsions of torture. Every violent action destroys those small alterations in the features, which sometimes disclose the sentiments of the heart.” p. 64.

“ A confession made during torture is null, if it be not afterwards confirmed by an oath ; which if the criminal refuses, he is tortured again. Some civilians, and some nations, permit this infamous *petitio principii* to be only three times repeated, and others leave it to the * *discretion of the Judge* ; therefore of two men equally innocent, or equally guilty, the most robust and

* Vide p. 112 for Lord Camden's Opinion of the Discretion of a Judge.

resolute will be acquitted, and the weakest and most pusillanimous will be condemned, in consequence of the following excellent method of reasoning. *I, the Judge, must find some one guilty. Thou, who art a strong fellow, hast been able to resist the force of torment ; therefore I acquit thee. Thou, being weaker, hast yeilded to it ; I therefore condemn thee. I am sensible that the confession, which was extorted from thee, has no weight ; but if thou dost not confirm by oath what thou has already confessed, I will have thee tormented again.*" p. 66.

" A very strange, but necessary, consequence of the use of torture, is, that the case of the innocent is worse than that of the guilty. With regard to the first, either he confesses the crime, which he has not committed, and is condemned ; or he is acquitted, and has suffered a punishment he did not deserve. On the contrary, the person, who is really guilty, has the most favorable side of the question ; for if he supports the torture with firmness and resolution, he is acquitted, and has gained, having exchanged a greater punishment for a less." p. 67.

" Torture is used to discover, whether the criminal be guilty of other crimes besides those of which he is accused ; which is equivalent to the following reasoning. *Thou art guilty of one*

crime, therefore it is possible that thou mayest have committed a thousand others ; but the affair being doubtful, I must try it by my criterion of truth. The laws order thee to be tormented, because thou art guilty, because thou mayst be guilty, and because I chuse thou shouldst be guilty." p. 68.

" Torture is used to make the criminal discover his accomplices. — Will not the man who accuses himself, yet more readily accuse others? besides, is it just to torment one man for the crime of another?" p. 68.

" No man can be judged criminal until he be found guilty ; nor can society take from him the public protection, until it have been proved that he has violated the conditions on which it was granted. What right then, but that of power, can authorise the punishment of a citizen, so long as there remains any doubt of his guilt? This dilemma is frequent. Either he is guilty, or not guilty. If guilty, he should suffer only the punishment ordained by the laws, and torture becomes useless, as his confession is unnecessary. If he be not guilty, you torture the innocent ; for in the eye of the law, every man is innocent, whose crime has not been proved. Besides, it is confounding all relations, to expect that a man should be both the accuser and accused ; and that pain should be the test of truth,

as if truth resided in the muscles and fibres of a wretch in torture. By this method, the robust will escape, and the feeble be condemned." p. 58.

"It would be superfluous to confirm these reflections by examples of innocent persons, who, from the agony of torture, have confessed themselves guilty: innumerable instances may be found in all nations, and in every age." p. 63.

The translator of this essay says in his preface, "It may however be objected, that a treatise of this kind is useless in England, where, from the excellence of our laws and government, no examples of cruelty or oppression are to be found." The author also says, "these truths are known to the English, a nation in which the progress of science, superiority in commerce, riches and power, its natural consequences, together with the numerous examples of virtue and courage, leave no doubt of the excellence of its laws." And the commentator upon this excellent essay adds, "If there were but one nation in the world which had abolished the use of torture, if in that nation crimes were no more frequent than in others; and if that nation became more enlightened and flourishing since the abolition; its example surely were sufficient for the rest of the world.

England alone might instruct all other nations in this particular; but England is not the only nation. Torture hath been abolished in other countries, and with success; the question therefore is decided."

How little did the *Marquis Beccaria* expect, that "these truths" could be ever known in any part of the British empire in vain: how much less did the Translator imagine, that "this treatise" would be so far from "useless in England;" or, notwithstanding "the excellence of our laws and government," that "examples of cruelty and oppression" would be found: but, still less did the commentator apprehend, instead of "the question being *decided*;"—instead of "*England alone* being the instructor of all other nations in this particular;" that, in the nineteenth century, England should be the only nation of civilised Europe, in which, the question should remain undecided, whether a Governor shall inflict torture in any, even the most distant, part of the empire. For, it is contended by the defenders of torture, or rather the defenders of GOVERNOR PICTON, that he was justified in the infliction of it under the British flag in Trinidad, provided it was authorised by Spanish law, or the law of that Island. If such a precedent were established, what Englishman

would go to Trinidad, or remain in that or any other country conquered by or ceded to Great Britain?

It has been urged by such defenders of severity, that his Majesty's instructions continued and enforced the laws and institutions which subsisted previous to the surrender of the island:—but they gain nothing thereby; for, it is as little in his Majesty's liberal disposition as it is in his power to authorise, by his instructions, any thing contrary to natural justice and equity. And, if we were even to allow that torture was used in Trinidad previous to its conquest, legal opinion and precedent are against the continuance of it under a British government. In the trial of *Fabricas v. General Mostyn*, p. 49,—it was said, by Justice Gould,—“under such a constitution in which we live, if there is a power that is not circumscribed by clear, positive, and precise rules, yet both natural justice and equity are the principles that ought to govern such a trust.” And, by Lord Chief Justice de Grey, “if any country, in which torture and banishment are the law, should come into the possession of Great Britain, these punishments fall of course; the constitution of Great Britain puts an end to them.” p. 60.

But, the Quebec-Bill is a case in point, showing at once, that "the constitution of Great Britain would not permit the criminal laws of a despotic government to continue in any of its plantations." The "Statute, 14, Geo. 3, c. 83, makes the laws of Canada the rule of decision there, in all matters of controversy relative to property and civil rights, but establishes the *criminal law of England* in that province."

It need not, however, be allowed, that it was the practice of the Tribunals in Trinidad to inflict torture; for, it must be stated, in justice to the Spanish Governors of that island, that it was proved, on the trial of GOVERNOR PICTON, *torture was never used there previous to his government.* And, as the uninformed may be imposed upon, by artful attempts to excuse or extenuate such cruel, unjust, and absurd practices, it is also necessary to state, that, after torture had been abolished in every civilised part of Europe, except Spain, King Charles III. declared, to the council of Castille, his decided disapprobation of it. In Spain, the royal will is law. The effect was, from the time of that declaration, the infliction of all torture was ordered to cease; so that, *during the last thirty years,*

there is no instance of torture, under the Spanish Law, excepting the instances under the government of COLONEL PICTON, the English Governor of the Island of TRINIDAD !

The agricultural interest has suffered greatly by the mortality among the slaves ; which has been greater since the conquest of the Island, than it ever was at any previous period ; and which may, in a great degree, be accounted for, by the excessive labour incident to a great increase of cultivation.

Indeed, the inducement to extensive cultivation could not be great, when the opulence of planters tended to excite the jealous apprehensions of the venal Spanish Governors ; whose safety, under their mal-administration of the laws, depended not so much, even on their distance from the Mother-Country, as upon destroying the means, which the oppressed might derive from the revenue of a flourishing estate, to bring them to justice.

*Quid faciant Leges, ubi sola pecunia regnat,
Aut ubi paupertas vincere nulla potest ?*

PETRON. ARBIT.

The knowledge of these facts induced the planter to conceal the progressive improvement

Brigands from Granada. These, with Irish Roman Catholics, emigrants from the English Islands, and a few Spaniards from Old Spain and South America, made up the population of the island at the capture, and is stated as follows :—

Whites, English	- - - -	610
——— Spanish	- - - -	505
——— French	- - - -	1036
		—
Total, Whites	- - - - -	2151
Free Coloured	- - - - -	4476
Slaves	- - - - -	10,009
Indians or Peons	- - - - -	1082
		—
Total Population in 1797,	- -	17,718

Some of the *Peons* are Indians of South America,—others are the mongrel offspring of the white Spaniard and Indian, the Indian and Negro, or the progeny of any of them, united in such varieties of shade, as almost to have effaced the traits of the aborigines. But there are many of the true Indians to be seen, at the different Indian villages, or *missions*; where the Priest and Commandant, when in union, exercise a sovereign sway over them. And, when these distant tyrants are not on good terms, a divi-

ding and distracting despotism is experienced; instead of that balance of justice, which, in most political situations, would result from the jealous watchings of opposite powers.

These poor people are the very opposite of what they are represented to be, in the *partial* publications, which have appeared on the affairs of Trinidad. For, they are too slothful to be actively wicked, but are, indeed, a quiet, harmless, inoffensive, race. They are often employed by the planters, with advantage, in clearing and even in cultivating lands, and in fishing and hunting: but, from the want of proper regulations, they are enabled, by earning even but a little, to live more in idleness and drunkenness, than in industry. And, therefore, they increase the population, without adding to the benefits of society. But this is no argument against their encouragement: it ought rather to call forth inquiry and regulation, with a view to their better protection and good government, to render them more rationally happy and more useful to the colony.

The cultivation of cotton was attempted some years previous to the capture, but the plantations were abandoned, as that cultivation did not succeed equal to the expectations formed of it.

Plantations of **COCOA** and **COFFEE**, although slow in coming to maturity, are very productive and valuable; and were favored by the Spaniards, and some few French settlers, who had but few slaves, and were averse to much labor and expensive establishments of buildings.

This cultivation is easy and agreeable, as the principal labor is felt only in first clearing the land; and, after the plantation is formed, the laborer, working under the trees which are planted to give shade, is not exposed to excessive heat, and is, therefore, not so liable to the diseases that the negroes suffer from the great and sudden transition of temperature, to which they are exposed, in the severe labor of sugar estates.

But, the French emigrants, who had brought with them large gangs of negroes from sugar countries, and English planters, or those who had a sufficient credit in Europe to support their speculations, entered extensively into the cultivation of **SUGAR** estates: and, the year after the capture, the produce was stated to be as in the following return.

	lbs	lbs	lbs	lbs
Year.	Sugar.	Coffee.	Cocoa.	Cotton.
1798.	5,908,457.	388,990.	235,020.	173,899,

Up to this period, the price of sugar had been very low; and, even after the capture by the English, it was sold at four dollars per 100 lbs. and, that too, in great quantities.

This did not long continue to be the case. The enterprising spirit of English merchants soon evinced itself in large consignments of every sort of British manufactures, adapted to the consumption of the place, and for exportation to the Spanish Main.

The quantity of shipping being unusually great, their dispatch being desirable, and produce cheap, it was soon bought up; and, consequently, felt a rapid rise in the market; until the eagerness to make remittances occasioned a competition for the sugar; which, from these causes, soon rose to ten dollars per 100 lbs.

This demand for sugar, at such a price, induced English speculators to purchase estates of those Spaniards and French settlers who were desirous of realizing their properties, in order to be ready to depart, whenever they might become dissatisfied with or obnoxious to the new system; or, who wished to remove to the continent of South America, where they could obtain new grants of land, and live among persons of their own religion, whom they, of course, preferred to heretics.

From this time, the cultivation of sugar-estates went on rapidly and spread widely. Large capitals were invested in expensive buildings, gangs of creole negroes were imported from the old colonies, and the slave-trade increased to a very considerable degree.

The increase in the extent and number of plantations produced a great addition of Englishmen from the old colonies, in the characters of managers, overseers, and mechanics; which, by suddenly increasing the white population, strengthened the militia.

The regularity of the rainy season, the great fertility of the soil, the high price of produce, and the easy terms on which the Spaniards and French disposed of their properties, were allurements, strongly felt, and readily yielded to, by those, who seldom reaped a good crop in dry countries or on a barren soil; or by others, who, not having much capital, calculated on paying, with their own crops, those proprietors who sold their estates to be paid for by easy installments in bills of exchange; which, protested for non-payment, often returned, loaded with damages and interest, to the ousted owner of the plantation. And here is opened to our view the opportunity for much fraud, favor, and protection.

Bad men will generally be found to be quiet men, when they are under an arbitrary government. They readily give an unqualified support to power, however corrupt its influence, if it be not in a direction to affect their own particular case : and, by an insidious adulation and servile submission, they produce a blindness to their crimes, and a deafness to the complaints that are made against them.

What a situation!—The government arbitrary ; the laws equivocal ; the language of the proceedings, in general, not understood ; the people about the courts susceptible of bribery ; the fraudulent party in possession of the property ; and, as possessor, not liable to arrest !—

From such causes, many of the first venders of estates received great injuries ; and, indeed, the precarious state of the island, previous to its actual cession, disposed those, who had sold, to be indulgent, or to appear so, rather than risk the being placed in a worse situation. There were, however, many purchasers who found opportunities of selling again to great advantage ; and the dealing in estates, to some men of good judgement, and to others who were fortunate, turned out so profitable, that many were tempted to try the speculation, who were superior to the arts which were necessary to ensure success.

Their failure was the consequence, in many instances; while others retained possession, and with it maintained their influence.

This rage for landed speculation continued during a considerable period, until the slaves, purchased during the first few years, began to drop off; for, from causes already explained, there was then a greater mortality than there has been since that period.

At length, the demand and the price for sugars decreased with the annual increase of crops and the decline of commerce: for, commercial as well as agricultural enterprise became very languid, even before the peace, and almost expired soon after the cession of the island.

The prospect of an extensive intercourse with the Spanish Main, encouraged by a bill in parliament passed for that purpose, induced British merchants, immediately after the capture, to send out agents with large consignments. Many of these, young and inexperienced, did not, at first, perceive the disadvantages under which the commerce of the country labored, from an impolitic duty, as well as from the protection given to the planter against his creditor. And the consequence was, that British capital, to a great amount, became invested in the country, in credit given by merchants at home, as well as by those

in the island, for African slaves, supplies for plantations, and materials for the buildings, and instruments for the manufacture of sugar and rum : while the dry goods of the first quality were sold to the French retailers, for cash, at a very low profit, in order to make a speedy remittance, and thereby induce the English merchant to make fresh consignments ; which was the principal object to the consignee, who gained by his commissions, whatever might befall the consignor.

As formerly stated, the remittances were made in produce, at prices which the European market would not bear ; so that more was lost upon the return cargo than was gained upon the invoice outwards.

And, although some goods, best adapted to the Spanish market, were bartered for Spanish produce, yet this trade did not turn out to advantage ; as the price at which only the merchant could sell his goods, produced equal demands for the Spanish indigo, cotton, &c. which, therefore, was too high to yield a proper profit in Europe. And it was only, when urgent calls for remittances induced the people in Trinidad to sell at auction the remnants of consignments, that the Spaniards, and others, bought to advantage any large quantity of goods : and,

at one time, these auctions often happened ; sometimes to make room for a new cargo ; at other times to make a remittance at any expence, in order to give a temporary prop to a tottering house ; and, not uncommonly, goods were thus sacrificed, by those who had injudiciously allowed the French retailers to select the most marketable articles, instead of selling by the invoice.

At any rate, until the peace, the hurry and bustle of the place gave it the appearance, at least, of a brisk commerce ; and this trade, with even small profits and quick returns, might have been continued with some advantage, had not a colonial duty, and the continuance of the Spanish system, completed the ruin of the agricultural, as well as the commercial interests of the country.

The propinquity of this island to the ports of South America occasioned it to be considered as the proper emporium for our commerce with that Continent ; and, even when possessed by the Spaniards, their views were directed to it in suitable regulations.

Settlers were exempted from all taxes for a certain number of years ; and, while no duty was paid upon the imports and exports of the mother-country, a trade was allowed with all

foreign ports, when not at war with them, liable to a duty of three and a half per cent. upon the invoices inwards and outwards.*

This encouragement to their colonists and the merchants of their own ports was dictated by liberality and conducted with wisdom. *We* were then among *their foreign* correspondents; and, consequently paid the three and a half per cent. But, the capture of the island placed *us* immediately in the situation of the Spaniards; and, therefore, our own imports of British manufactures, and exports of produce in English bottoms to our own ports, ought to have been immediately exempted from the duty, to which our predecessors were not liable. And it is most extraordinary, that it was not ordered so; for, in allowing a duty to be collected upon our own manufactures, contrary to the usage in our other colonies, and unauthorised by the practice of the former government, a want of wisdom has been exposed, and a neglect to the true advantages of our situation as connected

* " Being a free port by the King's Schedules, the trade was entirely in the hands of foreigners, and in particular of G. B. on which a duty of $3\frac{1}{2}$ per cent. on import and the same on export was levied."

Governor Picton's Statement to the Minister for the Colonial Department, March 1802.—Article Commerce.

with the commerce of South America; — the only point of consideration in which, it has been pretended, this island ought to be estimated.

The payment of three and a half per cent. both in and out, adds seven per cent. to the first cost of the British manufacture: for, the merchant who imports must send his ship back laden, and, paying duty on his cargo both ways, he lays the whole upon the goods imported. It is true, that the consumer in the island ultimately bears a part of this, as far as the quantity consumed; but our grand commercial view is to the Spanish merchant; who, while goods could be bought at auction, as before described, brought his dollars, or produce, and purchased manufactures below their value in Europe. But when the ruin of a few houses, and the experience of others, produced a more cautious and circumscribed trade; and when, also, the decrease of commerce, by diminishing the product of this duty, increased the severity with which it was exacted; it could not be expected that we should have any great commercial intercourse with the people of South America, while they can procure every thing they want seven per cent. cheaper at any other island.

The impolicy of exacting the three and a half per cent. does not stop here. It has always been

held wise to prohibit the importation of foreign manufactures, and, on the contrary, to encourage the use of our own ; for reasons which, at this day, are too obvious to the common sense of those who know any thing of the interests of our manufacturing towns and navigation. But, the exaction of a duty upon the importation of our own manufactures into the colonies, if it do not entirely prohibit, at least discourages them, and offers an inducement to smuggle foreign manufactures, which, being introduced to our shops, lessens the demand for our own goods; and likewise injures the revenue of the mother-country, by diverting the course of the return cargoes.

Thus, our commerce, which, soon after the capture, had the false appearance of being flourishing, is reduced to a point which exposes the calculations of our financiers to ridicule; and adds another of those lessons, which teach, that, to obtain the end, a proper attention must be paid to the means. And, until this matter is seen in a right point of view, Trinidad will yield as little to the revenue of the mother-country by its commerce, as it does by a similarly unwise management of the produce of its agriculture.

The imposition of this duty upon the produce shipped to the mother-country is not only contrary to the principles on which the Spanish government exacted it, but it has placed the planters of this island in a worse situation than those of many other neighbouring islands : in as much, as the sugars of this island pay the same duty in England as the sugars of those islands do which pay no colonial duty. It is true, plantation-stores from England do not pay this duty ; but, what is of more consequence, every article of provision, from Great Britain, Ireland, and America, pays it : therefore, the planter in Trinidad pays seven per cent. upon that part of his crop which is taken in barter for provisions, and three and a half per cent. upon the remainder : which, when the market is low, takes away even that profit that the produce of other islands affords, and with which, at such times, they would be contented.

Other bad consequences arise from levying this duty upon the *American* imports : they cannot be sold to us upon such easy terms as to the other colonies, where no such duty is exacted. Hence, there will always be a danger of scarcity here ; as the Americans will go to those islands first, and only come to our market when the

others are glutted : so that, in times of scarcity, other colonies will be supplied while we shall starve. And the only inducement which Americans can have to furnish us with what we want, must arise from another evil, greater, if possible, than the former.

By allowing them to take away our sugars in barter for their provisions and other supplies, we give them a licence contrary to the spirit of our navigation-act; and fraught with the greatest mischiefs to our revenue in England, our commerce, and naval strength.

But, as though the greatest pains had been taken, to make this import as ruinous as possible in its effects, in every direction, it is exacted in cash; which the planters, in general, but most particularly those whose estates are distant from the port, cannot raise to pay this duty.

In distant quarters, all the necessaries to be procured are only to be had in barter, so that coin is not in circulation among them. Such distant planters are almost strangers in the town : therefore, they cannot readily find a purchaser for the little produce which would pay the duty; and their presence on their estates is so necessary, that they cannot remain long enough absent to look out or wait for a cash-purchaser. But, were the duty payable in kind, they could

instantly deliver it to the RECEIVER, ship their crop, and return, without loss of time, to the care of their property in the distant quarters of the island. Many planters would then ship their produce to England, who cannot now surmount the accumulated obstacles thrown in their way, by the unwise and mercenary mode of collecting this import. Many planters, who are not known to any merchant in England, would then have a credit with them; and, receiving from thence all their plantation-stores, at the first cost, the expences of their estates would be lessened; while, at present, our plantations are often in the most deplorable and distressing state of want; experiencing all the hardships and privations of poverty, though in possession of means, which, if timely shipped to the mother-country, under the same advantages with the produce of other islands, would supply all the comforts of plenty. Instead of which, the Americans are reaping all the benefits of the planter's labor and capital; for they are always ready to pay the duty in cash on purchasing the sugar; which the planter is obliged to let them have at less than a proportionably inferior price, because he cannot get cash from others to ship to a better market.

In this way, we increase the commerce and shipping of America at our own expence, both at home and abroad.

To these circumstances is the depressed value of agricultural property, in a great measure, to be ascribed: but, there are other causes to which, also, the dulness of landed speculations must be attributed.

Many Emigrants from the English colonies, by the encouragement of the Spanish government, had improved their grants of land into valuable plantations; and were found by their friends, who visited the island with speculative views, in an unexpected state of affluence; selling their possessions, and commencing new plantations. And, for some time after the conquest, many persons were induced to purchase, with a view to sell again at a profit; while others invested their property in estates, with the intention of making a permanent settlement thereon.

Many of these had borrowed money in England to purchase in Trinidad; and, as before stated, to most of them a credit was given, both at home and in the island

The merchants, however, ignorant of the temporary difficulty of enforcing payment, at any rate, calculated, that, either on the restoration of the island to the Spaniards, terms would be

arranged for securing the payment of British debts, or, that the establishment of English laws, at the cession of the island, would afford them the justice of British courts, in the recovery of what was due to them.

Those persons of property, who had invested their own funds in the soil, also expected, that in due time, the form of government and jurisprudence enjoyed in all the other West-India colonies would be established in Trinidad. And, under this impression, the merchants, notwithstanding their temporary inconveniences and disgust, continued their credit to the island, in all such instances as had not, already, too palpably disappointed their expectations.

This accounts for, the otherwise-extraordinary, continuance of commerce and mercantile confidence up to the time of the cession.

That such a dependence on the wisdom and liberality of the measures to be adopted at the peace, had the influence described, was evinced immediately after the signing of preliminaries, by greater arrivals of inhabitants, seamen, and slaves, during the seven succeeding months, than was ever known in any equal period of time : and, during which seven months, the increase of population was according to the following returns, obtained from the proper offices in Trinidad.

1802.	White.			Free Coloured	Slaves.	Seamen arrived in this port in the following months.	Slaves, shipped to other ports from this glutted market, in the following vessels, viz.	
	English.		Foreign.				British.	Foreign.
	Males.	Females.						
January	87	17	15	33	1813	January	372	168
February	99	2	10	18	1635	February	500	174
March	84	2	12	13	1652	March	426	500
April	43	4	9	6	732	April	243	115
May	69	5	6	35	1180	May	267	70
June	70	6	23	19	2595	June	267	30
July	83	21	26	65	1036	July	200	100
	535	57	101	189	10643		2275	957
	57	Females.		Exported,	4606	Total	3232	seamen,
	592	Total English.		Balance	6037	who must have navigated		200 sail of ships, allowing
	101	Foreigners.		sold in the island.		20 to each, of 47 Africans,		and 15 to every other ship;
	693	Total increase of whites in the 7 months succeeding the cession.				which, allowing for deaths on the coast and impress on making the island, is fair.		

Previous to this sudden increase of population, Colonel Picton received his Majesty's commission as civil governor; which was accompanied with instructions, "to choose, from among the proprietors of the said island, a council consisting of not more than five nor less than three persons," who were to assist him, and with whom he was "*required to consult and advise;*" but "*to act contrary to their opinions,*" when, in cases of importance, he should judge that it was requisite: and "to remove the members" thereof, "and to choose others in their room;" but to transmit immediately, "to one of the principal secretaries of state," his reasons for doing any of these extraordinary things. Accordingly, counsellors were chosen; and, among them, some *Roman Catholics* were admitted to perform the duties of that office, notwithstanding such a measure was contrary to the principles of the British constitution; and, also, to the usage of every other British government in the West-Indies.

But, how far this measure may be advisable in the present day, and under what circumstances, shall be considered when I come to the discussion of the subjects connected with it.

The council was appointed by the governor. One *Frenchman* was chosen, but not a single

Spaniard! — And that Frenchman was *St Hilaire Beggorat*, who advised the infliction of torture to extort evidence! — His appointment produced much jealousy and discontent. The respectable Spaniards, ancient officers under the Spanish government, found themselves neglected, and their countrymen not represented in the council, in order to give place to *an alien*; — one, who was not a natural subject either to the government of the conqueror or the conquered; nor, even, an adherent to the house of Bourbon; on which account, both the English subjects and French royalists were also highly dissatisfied. He is still a member of that honorable council, and, at the same time, a member of the *illustrious Cabildo*; by which means, his influence, be it well or ill directed, becomes double that of any other man in the community. Nor ought it to be overlooked or forgotten, that, after acting under the oaths of allegiance to the king of Great Britain, he goes from the English *Council* to sit in the Spanish *Cabildo*; acknowledging the supremacy of the Pope and transubstantiation in the *Cabildo*, roundly swearing in the *Council* against both, as “impious, heretical, and damnable!” but *cede magnis* is his maxim; and Colonel Picton says he is “a virtuous and upright magistrate!” — Mr Black has a claim to

the *same sort* of character for "virtue and uprightness;" as, whether he be Protestant or Roman Catholic, he has been sometime member of these two councils; and, therefore, all these remarks are equally applicable to him. — Governor Picton, no doubt, had an eye to the state of their consciences in his statement to the colonial minister. — Under the article religion, — he says, "the Roman Catholic religion, by an article in the *schedula*, was an indispensable qualification to the admission of settlers." That circumstance, however, was little enforced by the late governor, who was *not a bigot*. Natives of *Ireland* were received *without examination*, the Catholic faith being, in the Spanish idea, as inherent to that nation as to their own." This may be very soothing to the old settlers in general: but, — though neither Mr Black, Beggorat, nor Langton, were *examined* on their settling in the island, *they must have been sworn into the Spanish council, as Roman Catholics; and in the English council, they must have sworn as Protestants*, if they were sworn according to the principles of our constitution: — and, *if they were not*, then, in both cases, they are ineligible for his Majesty's council.

From the foregoing statement of the great increase of population, and the importation of so

many thousand slaves in a few months, it is natural to conclude, that, had the expectations of the people, within and without, been realised in the liberal encouragement of commerce and agriculture; and in the establishment of the form of government, and code of laws, enjoyed in the other West-India islands; which, at different times, have been settled by, or ceded to the British government; the population, cultivation, and commerce, of Trinidad, would have continued to increase in the same proportion: and, then, its value to the mother-country would have proved equal to what was expected of it.

That all this was expected by the British inhabitants, in particular, appears from the following loyal and affectionate address to his Majesty; which was signed by a certain number of them on the cession of the island,

To the King's most excellent Majesty,
Most gracious Sovereign,

We, the principal freeholders, merchants, and other British inhabitants, of the island of Trinidad, approach your Majesty's throne with the most dutiful respect and affectionate loyalty, begging leave to present our unfeigned and earnest congratulations on the happy change which has taken place in the political affairs of

Europe ; among whose nations, none have been so distinguished as your Majesty's imperial kingdom, for that perseverance and success, which have dignified your Majesty's Councils, and have impressed the world with an appropriate opinion of their wisdom and penetration.

That so long and expensive a war should be closed by such a signal series of unparalleled successes both by sea and land, and end in a peace, so honorable in its terms, and so valuable by its additions to your Majesty's dominions, is a consideration which must excite the proudest exultations in every British bosom ; but more particularly affects the hearts of your Majesty's most loyal subjects in this island, who feel, with inexpressible gratitude, the immense obligation which your Majesty has been pleased to confer on them, by your gracious solicitude to confirm this valuable conquest, and add it to the other colonies so happily placed under your Majesty's paternal care and protection.

In thus venturing to address your Majesty, we are emboldened by that gracious condescension and regard, which it has been your Majesty's pleasure to extend on every occasion to your dutiful and loving subjects ; and, we humbly beg leave to represent, that, next to our most

anxious prayers which will be continually offered up to heaven for the long life and perfect health of the best of Kings, and for the continued blessings of peace, we earnestly hope your Majesty will be graciously pleased, as speedily as in your Majesty's wisdom may seem expedient, to complete the happiness which we already begin to feel under the cession of this island to our mother-country, by extending to your faithful and affectionate subjects, in this colony, the privileges and protection of the British constitution, as experienced by a free representation in a house of assembly, and in the trial by jury : — privileges, which we ought to inherit in common with our countrymen under your Majesty's mild and benevolent government in Great Britain and its numerous colonies.

We humbly beg leave to lay at your Majesty's feet our warmest protestations of loyalty and attachment to your Majesty's person and family; while we cherish the recollection of the happy events which confirmed the liberties of Englishmen, by placing your Majesty's illustrious Ancestors on the throne.

That the blessings of Almighty God may continue your Majesty's health during a long and glorious life, and prolong the happiness and prosperous influence of your Majesty's family over

your united kingdoms to the remotest ages, is the devout and fervent prayer of your Majesty's most faithful and affectionate subjects.

(Signed)

John Sanderson.	William Lockhead.	Jos Rivers.
Robert Mitchell.	James Adrien.	John Downie.
Thomas Law.	Thos R. Robinson.	William Swinden.
Alexander Williams.	George Dalglish.	James Ruddach.
Townshend Paisea.	M. Smith.	William Doyle.
Robert Bond.	Edward Rivers.	Edmund Devin.
Thomas Higham.	Anthony Moore.	George Wardell.
William Ball.	William Dickson.	William Proctor.
Alexander Dick.	William Redhead.	Thomas Parkinson.
John Shaw.	John Johnston.	William Horne.
William Perry.	M. Gallagher.	Michael Mitchell.
John Proctor.	John Hayes.	Peter Murphy.
Thomas Kenny.	William Stephens.	William Morrison.
Alexander Hall.	William Coxall.	Matthew Roche.
William Belk.	William Woodward.	Roger Harrison.
Thomas Emery.	Philip Camm.	Edward Galley.
John Omasa.	Chas. A. Gellinau.	Francis Dawes.
James Shannon.	Robert Baker.	A. P. Tracey.
Andrew Thomson.	Hugh Monnaghan.	James Bruce.
George Bostock.	Daniel Park.	Anthony Wharton.
John Hallinan.	James Johnston.	William Coulson.
Benjamin Neblitt.	Thos Higham, junr.	Thomas Hargrave.
James Fisher.	James Hogg.	John Calvert.
Charles Brough.	William Neblitt.	James Bourke.
John Edmundson.	John Caw.	Charles Burdett.
Seth Wales.	John Wethered.	John Macauley.

William Hannah.	E. Paynter.	Geo. A. Nicholson.
Martin Finucane.	D. King.	J. Buckley.
P. T. Winterflood.	Jasper Lyon.	Clem. Johnston.
Thomas Skerett.	David Black.	James Handley.
Thomas Warwick.	James Dickson.	William Eccles.
William Kewley.	George Rome.	William Gray.
Rheub. Flinn.	Robert Ewing.	Charles Audain.
Thos G. Tyler.	George M'Beath.	Thomas Booker.
Thomas Wilmot.	John Banks.	John Ellis.
William Tolmie.	Arch. Wetherson.	William Caton.

Some particular circumstances relative to this address must be stated, in order to prevent the wrong conclusions which a want of explanation would admit of; as well as to guard against the false impressions which Governor Picton, and his evil advisers, may find it necessary to attempt, in extenuation of the outrageous folly they exhibited on that occasion.

As soon as the cession of the island was known, some English inhabitants, by an advertisement in the Colonial Newspaper, called a public meeting of their countrymen, to take into consideration and sign the foregoing address.

The meeting took place without hindrance or objection. It was by no means a partial meeting: there were present gentlemen who favored the government, as well as those who disapproved of its measures. One member of the

Cabildo, or Spanish Council, as well as the commanding-officer of the White Militia, and several considerable planters and merchants, attended in all the stages of this business. And an address was also voted to the Governor, requesting him to forward the address to his Majesty, by some proper opportunity, to the Secretary of State for the colonial department.

A sufficient number of vacancies were left, at the head of the list, for those officers about the government who might be desirous of occupying them: and it was intended, when the planters and other inhabitants from distant quarters should have had time to come in and sign it, that both addresses should be presented to the Governor, by a respectable committee appointed for the purpose: and the address was placed at a house, to receive signatures; and notice thereof was given in the Newspaper, as resolved at the public meeting. In all this there was nothing illegal, irregular, or clandestine.

In the course of two or three days, more than one hundred names were subscribed; and, by this time, a knowledge of the measure had reached the distant districts: but the addition of signatures was suddenly prevented, by an order from Governor Picton to deliver up the paper.

This order was considered so arbitrary, so unjustifiable, and so destructive of the privilege of Englishmen to address the Throne, especially as it was upon points not only so harmless but so laudable, that the first impulse produced disobedience to it. This was succeeded by the imprisonment of one * gentleman, the dismissal of several from the militia and the custom-house, and the abuse of all who had signed the address : and the names of those dismissed from the militia were branded in the public paper with the opprobrious and disgraceful charge of “ seditious conduct.”

Many of the subscribers to this loyal address, ignorant of law, were terrified with the apprehensions of confiscation of property ; the Governor having assured many of the foreigners, that, to petition for any laws or constitution, contrary to the existing system, was an act of rebellion, and therefore liable, at least, to the punishment of confiscation.

A public dinner, to which about forty *English* gentlemen had subscribed, was to have been given in honor of the peace, the terms of which were so favorable to the inhabitants by the cession of the island. — The dinner was prepared, but

* Mr Higham.

the guests were peremptorily forbidden to meet at the place appointed. — The owner of the house was ordered at his peril to suffer the meeting to take place,

The intentions of this loyal and convivial party were asserted to be *seditions*; and the orderly books of the 10th of December will prove, that the main-guard was double its usual number, for the purpose of dispersing this *merry meeting* AT THE POINT OF THE BAYONET. The subscribers to this dinner were all Englishmen; the country could not be endangered by *their* unanimity and conviviality: but, in order to give no excuse for the exercise of farther violence, they submitted to these tyrannical orders; and contented themselves by meeting in separate small parties; when they expressed their joy and gratitude, upon the cession of the island, by drinking, *in secret*, his British Majesty's health! They were cautious not to allow any expression to escape them, that could be construed into the ardent attachment, which they were known to entertain for the British constitution and trial by jury; for, such expressions, if overheard by the spies dispersed through the town, would have inevitably involved the parties in a disgraceful dismissal from his Majesty's militia-service; as

such a punishment had already been inflicted on the *Major Commandant* and others.

It followed, of course, that no more names than those which were already subscribed by the persons in town; could be added to the list of the address; as this outrage upon common sense, British liberty, and justice, deterred the freeholders from taking any part in a measure, which, however innocent in itself, exposed all those concerned in it to obloquy and reproach.

Let the liberal and intelligent decide whether the conduct of His Majesty's subjects, on this occasion, merited such treatment. From this time, party-disputes arose, and political animosities have ran high ever since.

No farther notice was taken of the address: it was never known whether it ever reached His Majesty's hands, although the Governor expressed his intention of forwarding it; but, incomplete as it was, from the deficiency of the planters signatures, we could not expect it to have that influence which it was originally calculated to produce, if it had not been so unwarrantably arrested in its progress.

The Governor, having, on this occasion, declared his hostility to the establishment of the English colonial form of government, and English laws, in this island; no notice being taken, in

any way, of the address; and some time elapsing without any prospect of the change of our situation; the anticipation of the liberal and wise system, expected at the peace, was succeeded by disappointment and dismay. All parties soon felt the effects, though some pretended to attribute them to other causes.

Those persons, who had bought estates on speculation, could not find purchasers for them, and had not, by themselves, the means of carrying them on to advantage. The long looked for opportunity of recovering outstanding debts, in English courts of justice, was not now likely to arrive; the period had gone by at which British laws were expected to have taken place, of the dilatory, corrupt, and inefficient practice of the Spanish tribunals; and many of the merchants, both at home and in the island, found, that the encouragement which they had given to the commerce and agriculture of the country, had greatly injured some, and occasioned the ruin of others. This, added to causes formerly explained, reduced commerce to the lowest ebb, and destroyed all credit and confidence between man and man.

The merchants in vain called on the planters for their debts; who, also, in vain offered their

estates for sale, in order to avert the impending ruin which threatened all parties.

A few English gentlemen arrived from the old colonies about this time ; some of them wishing to invest their spare capital in such a fertile country ; others intending to abandon old worn-out estates in unseasonable or dry islands, and to remove their slaves where they could employ them to more profit ; — some again, having, by humane treatment and wise attention to families of negroes, increased their gangs beyond the number for which there was employment, intended, by the superabundance, to increase their wealth. And again, others, who having spent the early part of their lives in the fatigues and anxieties of commerce, resolved upon the retirement and independence of a freehold estate ; came to look around, and seriously consider the advantages and disadvantages which might result from attempting to carry into effect their several plans.

The eagerness with which distressed planters, and merchants who were mortgagees, endeavoured to excite their attention, by offers of estates for sale in every quarter ; the exaggerated descriptions ; pretended easy terms, by arrangements with creditors equally desirous of better possessors ; and the very general desire to sell

rather than possess, gave the first alarm to strangers ; and was, naturally, productive of cautious inquiry and attentive observation.

They soon learned, from the general complaints in common conversation, the depressed state of commerce ; the fallen value of landed property ; the bad credit of the planter ; the mortality among the slaves ; the enormous amount of the merchants unsatisfied and uncertain debts, and their consequently withholden assistance ; the exaction of an illegal impost in cash ; and the corruption which polluted and obstructed the avenues to the Spanish tribunals : and, yet, strange to relate, and still more strange for them to comprehend, they found a party opposing the establishment of the English constitution and trial by jury ; — the only means of removing the evils which were overwhelming the country, and of restoring it to a tranquil, prosperous, and respectable state.

The considerations, which are stated previous to the political ones, were of sufficient weight to decide these gentlemen against settling in the island ; more particularly as they were, in a great measure, produced by the unnatural politics which designing, artful, vain, and ambitious men had adopted and disseminated

under false but plausible pretences. Whatever might be the motive to prevent that constitution, and those laws, from being in force, which these Englishmen had always enjoyed in the other colonies, as their birth-right, and their only dependence for the safety of their persons and property; it was evident, from the Governor's conduct in the affair of the address, as well as from the pains taken to prove the colony incapable of admitting Englishmen, and his Majesty's other subjects, to the enjoyment of English liberties; that the present, if not a worse, system was to continue; and, that, to reside in Trinidad, they must smother the feelings and forget the sentiments of Englishmen.

But these gentlemen had been better taught: they were not (as was once said of colonial legislators, by a personage so high in authority in Trinidad, as to make it as shameful as it was false, illiberal, and scurrilous) "the rakings of England, Ireland, and Scotland; — fellows, without family, fortune, or education; who, as attorneys and managers, raise themselves upon the ruin of the planters, whom, when they oust from their estates, they succeed in the legislature." — No! they were most of them men who could

boast good family, European education, and riches gained without the loss of integrity.

Nobilitas sola est atque unica virtus. JUVEN.

Many of them would have been valuable in the outset of the expected new constitution; and the ambition of being distinguished as useful, was, of itself, a laudable motive for coming among us; for their services would have turned to our advantage in the council and assembly, and as assistant-judges and magistrates.

I do not intend to state, what the enemies to every thing English in Trinidad constantly insinuate, that, without such supplies of English settlers from the old colonies, "we have not persons amongst us competent to those offices." On the contrary, we have abundance in number, as the returns of white population prove; and in education, too; as all those persons know, who have had the pleasure of associating with the respectable part of the community. And those, who deny this fact, must either be men whose connections are so low as not to admit them to the opportunity of forming a proper opinion; or, whose hearts are so base as to derogate from the respectability of their friends, in order to justify their insidious representations.

Such, however, was the effect on the minds of most persons who now arrived, as well as on the minds of many who had already been some time among us, that they left a place in which they saw no prosperity, no freedom, no justice, no safety of person or property; nothing but jarring opinions about the blessings of that constitution, which Englishmen every where else unanimously admire and support: and they returned to their own countries, to enjoy the reverse of these circumstances, where they could be, each in his situation, useful and distinguished.

It naturally followed, that the disgust they carried with them was communicated to their friends, in the strong picture which they gave of our unnatural disputes, and most deplorable situation, so as to prevent great numbers from settling amongst us.

In order to demonstrate, that some such causes must have operated against the extraordinary inducements which there are for settlers in new countries; I will state the progress of the population of the island, from its conquest to the year 1805.

POPULATION OF THE ISLAND OF TRINIDAD.

Years.	White People.	Free Coloured.	Slaves.	Indians	Total.
1797	2151	4476	10009	1082	17718
1798	2186	4799	11021	1005	19011
1799	2128	4594	13311	1143	21176
1800	2140	4582	15810	1149	22850
1801	2153	4909	15975	1202	24239
1802	2261	5275	19709	1252	28477
1805	2416	5807	19984	1733	29940

From this statement, it appears, that the only considerable increase of population has been of free coloured people, slaves, and Indians. In 1798, the white population increased only 35, and it decreased in 1799 almost double that number; say 58. In 1800, it still remained *minus* 11; and, in 1801, was *plus* only 2. But, it has been shewn, in page 77, that, in the first 7 months of 1802, 693 white people arrived; which, added to the census of 1801, ought to have raised the census of 1802 to 2846: but, in the return, we find it only 2261, leaving a deficiency to be accounted for, equal to 585 persons.

Should it be urged, that this influx of people was not included in the census of that year; I answer, that it must have been included; as this number arrived in the first half year, and the census is always taken in October. But, as it will be remembered that the year 1802 was very sickly, the deficiency may be attributed, by some persons, to that cause: this, however, will not account for it; for, by referring to the English church-books, it will be found, that, in those 7 months which were the most sickly, not more than 35 English people were buried; and, that the greatest number that died in any one month, was 10, in the month of June. Surely, this was no great mortality, out of 693 newly-arrived people, in such a climate: and, yet, in the month of June, when ten died, the inhabitants were very much alarmed on being invited to a funeral every third day; for, on an average, that was the case through that month. And, the sad intelligence of a ravaging disease in this island, spread through the colonies, reached to England, and impeded the progress of population. But, supposing as many more to have died in the same year, before the census was taken, the number of deaths would be 70; which is more than need be allowed; as the first few weeks are always the most fatal to strangers: so that, deducting

70 from the 585, there yet remains to be accounted for 515. And, suppose we allow, that 15 of the 101 foreigners also died, which is a greater allowance than necessary, as they do not die, in the same proportion as the English, on their arrival in these climates; we still leave a clear 500 deficient in that year. Now, we must either suppose, that, between the census in 1801 and that in 1802, 500 foreigners emigrated, and gave place to 500 English settlers; (which will not be allowed by Colonel Picton's friends, who may contend, that he was most popular among the foreigners; as their subscriptions for his sword and continuance in the government were by far the most numerous :) or, we must suppose, that, the disputes and dissatisfaction about the British constitution and laws at that time, agitating, and, indeed, convulsing the colony, produced an emigration of English people equal to the deficiency. But, if, of the two conclusions, the emigration of the foreigners be the most acceptable, because the most liberal conclusion towards the governor; then, the inference is in favor of the capacity of the colony for an English system; as, in that case, the foreign population must have fallen 500, and the English must have risen to the total, 1110. At any rate, very little can be said for the progress of popu-

lation in this island; as, in some years, it was much below the number at the capture; and, in five years after it, notwithstanding a sudden influx, in seven months, of a number nearly equal to one-third of the whole original white population, we find only 110 above the first census.

But, under the more mild and gentlemanlike government of Brigadier-General Hislop, we find, in the next three years, that is, from 1802 to 1805, an increased white population of 155.

The progression in the returns of slaves and crops is greater,

ANNUAL RETURNS OF SLAVES AND PRODUCE.

Years.	Number of Slaves.	lbs of Sugar.	lbs of Coffee.	lbs of Cocoa.	lbs of Cotton.
1797	10009	5908457	388990	235020	173899
1798	11021	8419859	335913	257390	323451
1799	13311	9895634	449614	284170	317395
1800	15810	15461912	328666	230600	262927
1801	15975	14164984	278273	138669	190210
1802	19709	29725044	300283	528690	256792
1805	19984				

This return ought to give a favorable impression of the fertility of the soil of Trinidad: for, it appears, that, in eight years, the crops of sugar increased to more than five times their amount at the capture; although the slaves, to cultivate and manufacture it, do not appear to be doubled. But, there must have been a dreadful mortality among the negroes; as, notwithstanding 6037 new slaves were sold and remained in the island in the first seven months of the year 1802, the census of that year gives us an addition of only 3734. And those, who were so unfortunate as to purchase largely, from 1801, to October, 1802, will sadly remember the losses they sustained in those slaves. But, it appears extraordinary, that, although the importation of new slaves has been carried on in the mean time, there appears to be in the three years, from 1802 to 1805, an addition of only 275 slaves. This must arise, partly, from a proportionable loss by deaths, and, partly, from the great decrease of this trade to Trinidad, occasioned by the bad credit into which the planting-concerns have fallen. But, Sir W. Young states the importation of slaves, to Trinidad, to be at the rate of 4500 annually.* It appears,

* Vide West-India Common-Place Book.

from all the returns of the population, from 1797 to 1805, that, the principal, and almost only considerable, addition to the whole population, has been produced by money expended in the purchase of slaves; and not from the increase of inhabitants, induced by the "energy, firmness, and imposing character," of the former government, nor, by the mildness, quietness, and consideration, of the latter. But, that, at the end of eight years, the increase of white inhabitants in this new, fertile, and productive colony, should amount to only 265, is surprising; and can only be accounted for by some radical defect in the system of the country. And, it cannot be doubted, that such defects as I have exposed, and others which I shall proceed to expose, must appear sufficient, not only to prevent the increase of new settlers, but to explain the decrease, which appears to have taken place, at times, to an alarming degree.

One instance of this sort is so well known, that it deserves to be particularly mentioned.

Mr John Wood, a member of the Council of the Bahamas, arrived in Trinidad, with 63 seasoned negroes and 4 mechanics, in the month of July, 1802; with the view of obtaining a grant of land, in the proportion allowed by the Spanish *Cedula*. The planters, and other inhabi-

tants of the Bahamas, who were disposed to emigrate to Trinidad, waited the event of his report, and expected his advice to follow him, with their families and slaves: but, on his arrival, finding the situation of affairs presenting an unpropitious aspect, he soon determined to return; and had already re-embarked with all the people, when Governor Picton, reflecting upon the injurious consequences of his departing in disgust, sent for him; and, by every conciliatory means, endeavoured to prevail upon him to remain; and gave him the choice of any unoccupied lot of land most suitable to his purpose. Mr Wood requested time to consult his friends, who advised him to alter his determination, and to accept the grant of land which was to be obtained at so little expense and trouble. The influence it would have in favor of the country, was strongly urged to him; and he accordingly landed the new settlers, and was faithfully put in possession of the chosen spot. But it appears, that this new determination was not the effect of any new or more favourable impression of the state of the colony; for this gentleman did not remain long in the island; but went back to the Bahamas, and never returned to Trinidad; nor did any of the persons who intended to follow him ever arrive.

By the number of families who intended with their slaves to follow Mr Wood's example, had he settled in Trinidad, there would have been added to the colony a population of more than 100 white persons, and 1000 seasoned slaves. And this became an irreparable loss; since he has sold the slaves which he imported; and himself, with many of those families and their slaves, have emigrated from the Bahamas, and have settled in the State of Georgia. To what extent this sort of injury was sustained, from the influence of the same causes upon persons in other directions, is incalculable.

The impending ruin of the country; the severity of the Governor in the affair of the address; the disgust at the opposition to English laws, expressed in loud complaints in the correspondence with England; together with the necessity of a survey and report of the state and capacities of the country; were succeeded by the appointment of the commission for the government of the island: the commissioners being the same persons who were at first appointed for the sole purpose of making the survey and report, necessary to the information of the government. The Cabildo, in their address to the Commissioners on the 21st of March, 1803, give the following account of the cause of the commission.

"Peace procured to the British colonies the happy effects that are its moral consequences; but in this, inhabited by people of various nations and connexions, it produced a *conflict of opinions* which it was found necessary to analyse; and the Cabildo, after doing so with a deliberation a subject so important required, transmitted its opinions to Court, and in consequence thereof His Majesty was pleased to appoint the present commission of government, entrusted to report, after proper investigation, whatever it might consider best adapted to its increase and prosperity."

Doubtless the opinions of the Cabildo had their effect, but they very artfully suppressed the nature of that "conflict of opinions." They would rather any thing should be imagined of it, than, that it was a conflict of opinions between *true* and *spurious* Englishmen, whether we should enjoy the true rights and liberties of the British constitution, or submit to the yoke of French despotism, under Spanish forms and English violations of them.

Oliver Cromwell appointed five commissioners to govern the island of Jamaica; which was also captured from and ceded by the Spaniards. But they did not effect any thing; for, out of the five, "three returned to England without

leave," and the other two fell "victims to the climate." So that this was no precedent for such an appointment. The promptitude of the measure was, however, worthy of imitation; for only as many months elapsed in that case, as years have been wasted in ours, before an "executive council was formed for managing the general affairs of the island;" instead of leaving such an important trust to a single man, untried in any such affairs before. Not that I mean to approve the council as appointed by the Protector, however I might approve of such a one as was afterwards ordered by King Charles the Second. For it is also worthy of remark, that Jamaica, a Spanish ceded island, instead of being left during ten years in corruption and confusion, giving excuse for the exercise of despotism, had a governor appointed in half that time: for the island was conquered in 1655; and, on February 13, 1661, "he was ordered to erect courts of judicature, and, with the advice of a council *to be elected by the inhabitants*, to pass laws suitable to the exigencies of the colony."* Nor was it long after this, that the Governor, Lord Windsor, "was instructed to

* B. Edward's Hist. West Indies, vol. i. p. 171; quarto edition.

call an assembly, to be indifferently chosen by the people at large, that they might pass laws for their own internal regulation and government; a privilege," says Bryan Edwards, "which, being enjoyed by such of their fellow-subjects as remained within the realm, it is presumed they had an undoubted right to exercise, with this limitation only, that the laws which they should pass, were not subversive of their dependence on the parent state."* And the desire of King Charles the Second, as recited in the Governor's commission, was "to give all protection and encouragement to the people of Jamaica, and to provide for its security and good government," — it is not said, by every means in his power, nor does it leave him to be influenced by passion, or to excuse himself by ignorance or error in judgement; much less to be misled and place the blame elsewhere. No; he was to do every thing "according to such good, just, and reasonable customs and constitutions as *were* exercised and settled in *other colonies*; or such others as should, upon mature advice and consideration, be held necessary and proper for the good government and security of

* B. Edwards's Hist. West Indies, vol. i. p. 174.

the island, provided they were not repugnant to the laws of England."*

If the commissioners, appointed for the government of Trinidad, had been empowered to act upon such principles, it is probable that the colony, ere this, would have been restored to prosperity and good order. But the appointment of three such persons to the joint performance of the office of Governor, was not founded in wisdom upon this occasion; as the event has exemplified. For, such an appointment could not promise much success, while Colonel Picton, who had so deeply committed himself, was allowed to be one of the commissioners. It ought not to have been expected, that his over-bearing mind would easily brook the mortification of being let down to a second place in that government, which he, alone, had so long conducted without control. It was still less to be expected; that he would fail to calculate upon his being left in full possession of the military power, whenever he had any desperate point to carry. Those, who are acquainted with the true dispositions of Colonel Fullarton and Colonel Picton, the first and second commissioners, would never think it necessary to ascribe

* B. Edwards's Hist. West Indies, vol. i. p. 244.

any thing that has happened to any *private* matter of dispute. It was sufficient, that Colonel Picton seemed determined to obtain an implied sanction to his former administration, by procuring an acquiescence in similar measures under the government of the Commissioners; while the wisdom and humanity of Colonel Fullarton as naturally determined him, not to afford the least semblance of a sanction, by his silence, to the outrages that had come to his knowledge; and much less to permit the repetition of them.

But it is unnecessary, in this place, to enter farther into the origin and nature of these disputes; for, although the guilty will be as silent as the circumstances will allow; as guilt never invites investigation; yet the innocent can only avoid participating in the public opprobrium, which the guilty alone deserve, by persevering in a manly demand for that open and unequivocal inquiry, which must, ultimately, fix the sentence of the law on the conduct that merits it. Should such an investigation be refused by government, or be evaded by the accused, the discussion of the subject will remain with the first commissioner, Colonel Fullarton; who will, no doubt, boldly expose the truths yet unknown, and enable the public to give their impartial verdict.

The disputes among the commissioners, induced Governor Picton, to beg leave of his Majesty, to resign his commission; and, on his Majesty's gracious acceptance of his resignation, two addresses were made by certain inhabitants on April the 28th, 1803; one to Colonel Picton on presenting him a sword, and the other to the King, praying him not to accept of the resignation. But, although the white population in that year amounted to about 2300, this sword was presented by 212 persons, of whom *only 65 were English*; and the address to the King* was subscribed by only 204, of which *not more than 50 were Englishmen*. By which it appears, that, among the very few Englishmen who were induced to espouse his cause, there were 15; who, though they were too generous to refuse their contributions towards his sword; yet shrunk from the attestation of his *good* conduct, lest they should be instrumental to the continuance of a government, the acts of which had rendered it disgusting and dreadful.

Tantus enim illorum temporum dolor inustus est civitati, ut jam ipse non modo homines, sed ne pecudes quidem mihi passuræ esse videantur.

CICER. IN CATILIN.

* See this address in the Secretary of State's office.

The above statement of numbers evinces the unpopularity of Governor Picton amongst the English part of the community; which, without entering into the consideration of the other causes, might be accounted for sufficiently, by his opposition to the establishment of the British colonial constitution.

Nearly about this time, the following address was presented to Colonel Fullarton, which, even if I were not prompted to notice for its strict unison with my own sentiments, I should still think it an injustice to pass over in silence.

To his Excellency Colonel Fullarton,
his Majesty's first Commissioner
for executing the office of Governor
of Trinidad ;

May it please your Excellency,

We, the undersigned merchants, planters, and others, inhabitants of Trinidad, beg leave to assure your excellency of our unfeigned esteem, affection, and confidence.

We feel, in the highest degree, sensible of the paternal solicitude of our gracious sovereign, in appointing as first commissioner for this island, a man whose talents, integrity, and honor have been so often and highly tried and approved ;

and lament exceedingly that we have so long been deprived of your excellency's presence among us, by an opposition as extraordinary and unexpected, as we conceive it to be unjust, unexampled, and improper.

We assert to your excellency our disapprobation of the proclamation, dated "Trinidad, April 27," as repugnant to justice, and inimical to the peace and welfare of the colony; and of the resolution of B. G. Picton and his Majesty's Council, of the 6th of June, as a direct violation of his Majesty's commands, communicated by Lord Hobart's Letter of April the 23d.

We beg to express to your excellency our full conviction, that your excellency, is in every respect worthy of the high trust reposed in you by his Majesty, and our confident hope of soon seeing the colony flourish under your wise, prudent, and conciliatory measures, as sole Governor, and in the administration of the equitable and admirable system of British jurisprudence.

We feel it our duty to declare our admiration of the prudent and wise measures of your excellency, in persuing, at the moment you chose for that purpose, those objects of his Majesty's commission which could effectually be carried on at a distance from the port of Spain, and assure your excellency of our belief, that this conduct

contributed most certainly and efficiently to the tranquillity which this colony has continued to enjoy.

We have the most perfect conviction that your excellency's government in Trinidad will afford comfort and conciliation to all around you, and that your well-known disposition will speedily heal all differences which may, unhappily, have appeared amongst us; and beg to assure your excellency, that you will receive every support and assistance, which may become loyal British subjects, from the undersigned, who are happy in this opportunity of declaring, in this plain manner, our warm regard and esteem for your excellency's character and person.

Port of Spain, July 12, 1803.

This address was signed by two hundred and five British born subjects, which is more than four times the number of the same nation that signed the address to the King, for Governor Picton.

To see cruelty and despotism, deserted, meanly shrinking from the resentment of the injured, under the cover of night, followed by detestation and contempt; and virtue and wisdom cheered and congratulated in open day, by the affection and plaudits of the people; afforded an

useful lesson to the wicked, and a subject of delight to the good!

*Libera si dentur populo suffragia, quis tam
Perditus, ut dubitet Senecam præferre Neroni?*

JUVENAL.

It has been shewn that the delays, intrigues, and partialities, practised in the Spanish courts, were complained of very early; but they continued to be so pernicious to the commercial part of the community in particular, that, as soon as some sort of reconciliation took place between Governor Picton and the suspended Chief Judge, it was found absolutely necessary to make a better provision for the administration of justice in future: and, accordingly, the Consulado was established; in which court Mr Nihell, the Chief Judge, was to preside and perform the office of umpire.

The jurisdiction of this tribunal was not to extend to real property, nor to such litigations as arose out of the affairs of estates; or the situations of the proprietors. It afforded no relief to the merchants who had already given credit to the planters; it only opened their eyes to the injurious consequences of giving farther credit to a privileged order; and, therefore, plunged the planter deeper in his immediate distress.

I call the planters a privileged order, because, to the astonishment of the merchants, who did not learn it until it was too late to prevent the great credits they had given, the proprietor of an established sugar-estate is, not only, not liable in his person for the debts of his estate, but even not for his personal debts. And, although the estate be mortgaged, yet neither the mortgagee, nor the other creditors, nor both together, can bring it to sale, unless the whole amount of the debts be equal to two-thirds of the appraised value of the property: nor can it be sold, even under that condition, for less than one half of its appraised value. And, in consequence of the high appraisement of lands since the capture of the island, those persons, who had obtained grants under the Spanish government, thus found themselves in possession of such a quantity of nominal property, as effectually to preclude the exercise of justice. And, although, in such cases, an execution will be granted against the produce of such plantations, yet as the slaves, stock, and persons, employed thereon, must be supported, in order to cultivate the estate, the levy is only made on two-thirds of the crops; which, also, must not be sold for less than the half of its appraised value. And thus the debtor, regardless of the creditor,

is enabled to keep possession of the plantation; and, at any rate, supplies his own wants with a certain part of the remaining third, expending the oftentimes insufficient residue on his slaves.

The Consulado, therefore, only took cognizance of those transactions which were purely commercial. That is to say, between merchants, or between them and persons who were not planters. It also took cognizance of contracts with tradesmen and mechanics; and also servants and labourers wages, where the debtor was not a planter. Therefore this relief, whether retrospective or prospective, was very partial. A secretary, or clerk, was appointed to this court; who, by the way, absconded with moneys that did not belong to him; and was succeeded by a very respectable gentleman,* educated in the law, and sent out from England as clerk of the courts.

In all matters of trifling import, the Judge, by himself, upon petition admitted, heard the parties and evidence and decided summarily. But, in all affairs of more magnitude, a day was appointed for the hearing of the cause; and the parties were ordered to summon their evidence in the mean time, and each to choose one or

* Mr Lewis.

two arbitrators, as the judge might order; who were to be sworn, as *Colleagues* and assistants to the Judge, to try the point at issue: on which occasion, the parties were to plead for themselves; or, if unable to attend, a friend or agent was allowed to act for them: but no lawyer, either Spanish or English, as a lawyer, was admitted to plead.

This court professed to decide according to equity and justice; but not to be trammelled either by laws, or the rules of courts.

After the hearing of the cause, if the *Colleagues* were unanimous in their opinions, the decision was given accordingly. Or when there were more *Colleagues* than two, if the division were unequal, then the decision was given according to the opinion of the majority, and without the interference of the Judge. But, upon an equal division of the *Colleagues*, then the Judge acted as umpire, giving the casting vote. From the sentence of this Court there was an appeal to the Governor in council, when the sum was above £300 sterling; and from thence to the privy-council in England, when the sum was above £500 sterling. But it was required; that security should be given to prosecute the appeal and to pay the costs.

The Consulado, thus constituted, continued during a considerable period; but under such occasional deviations from its first practice, as were suggested by the inevitable perplexities of such a system.

Counsellors not being admitted *as lawyers*, the parties therefore appeared; and, of consequence, the ardour of self-interest, and the virulence of animosity, produced incoherent harangues, violent interruptions, bitter invectives, and retorts, with such digressions from the point in dispute, that it was often difficult for the quickest apprehension to ascertain the merits of the cause, or for authority to restrain the violence of the parties.

In a country where the laws of England and Spain are only known to the subjects of each, it may be thought, that to decide by equity, without consulting the laws of either, was a wise practice: and yet it has not been found so; for, unless both the parties happened to be accustomed to act according to one system of laws, each came prepared (perhaps an Englishman and a Spaniard,) to state and defend his case according to what he had always understood to be the law: and, in the end, they not only found that they had pertinaciously acted upon opposite rules of conduct, but that the

Judge and his *Colleagues*, unconcerned about the laws of either, decided differently from the expectations of both; leaving them in greater ignorance than ever, upon what principles they were to conduct their future affairs.

It cannot be expected, that the people will be satisfied or obedient in a country where there is no "rule of conduct prescribed by the supreme power in the state, commanding what is right and prohibiting what is wrong."* Such a rule of action ought to be fixed and certain, known and notorious; and ought not to be left to "the discretion of a Judge;" which, Lord Chancellor Camden says, "is the law of tyrants; it is always unknown, it is different in different men; it is casual, and depends upon constitution, temper, and passion. In the best, it is often times caprice; in the worst, it is every vice, folly, and passion, to which human nature is liable."†

Another consequence, of excluding lawyers as advocates, was, that those trifling and vexatious litigations, which a virtuous practitioner will adjust and settle between the parties, or those causes of dispute, which, are on one side

* Blackstone Com. vol. i. p. 43.

† Biograph. Anec. vol. iii. p. 398.

or other manifestly unjustifiable, instead of being prevented, were brought before the Court, always injuriously to both parties by the consequent expense, and often productive of irreparable mischief to character.

In cases where the unsuccessful parties were not satisfied with the decree, and desired to appeal from it to the Governor in Council, their ignorance of such proceedings, and of the formalities to be observed on such occasions, almost amounted to a prohibition to appeal; and, at least, often produced an unwilling acquiescence to decisions which they considered unjust. And thus the usefulness of lawyers obtruded them upon the Court as the friends, though not as the avowed legal advocates, of the parties.

It is extraordinary, that an *Attorney* and *Solicitor General*, and a *Clerk* of the courts, should be appointed for this colony from England, while the laws of England were not allowed to be in practice here.

The lawyers were ever ready to give their assistance, notwithstanding the disguise under which it was to be employed: and their practice produced new perplexities, both to the Court and the parties; for, it often happened, that only one party employed a lawyer, the other being, perhaps, unable to bear the expense, or

prompted by economy or vanity to plead for himself: — knowing, too, that law-authorities would not be attended to by the Court. Thus the chicane and habitual address of the profession was brought into use; and sometimes with success to the undeserving party, by perplexing, distracting, or dividing the opinions of the colleagues; and by a distortion of the evidence, unresisted by the other party, who, from being unhackneyed in such professional manoeuvres, becomes abashed and confused.

Notwithstanding the determination of the Court, to act upon principles of equity alone, these gentlemen verbally quoted opinions and decisions from the English and Spanish law-authorities, when their knowledge extended so far. And, whenever they could excite the attention of the court to such elucidations, (for they were not listened to as governing precedents;) the colleagues could not fail to be influenced by them; as supporting the reason and justice of the case. And, at length, it was no uncommon thing to see upon the table, the books of law of both nations; either, or both, being ingeniously quoted in favour of the party who had *wisely* employed the lawyer.

Another deviation soon followed. For these tolerations rendered certain rules of court neces-

sary to govern the practice, in order that the increasing business of this tribunal might proceed with some facility. For, in comparison with the conduct of the other tribunals, this had become productive of much benefit. Accordingly, rules of practice were submitted to the approbation of the Governor, now General Hislop, and were ordered by him to be enforced by the court. Thus, by degrees, the Consulado became more and more assimilated to an English court; and, in the same proportion, recourse to it was had more generally than to the ancient tribunals of the Alcaldes: who, now, began to be extremely jealous; and disputes arose between them and the judge of the Consulado, "as to their respective jurisdictions," which often delayed the proceedings, and thereby impeded the exercise of justice.

These altercations, between the tribunals, happening to be found most inconvenient just about the time when Mr Commissioner Deane was in the island, the judge of the Consulado produced his commission, as chief judge, appointed by Sir Ralph Abercrombie; and it was understood, that the commissioner, who is a regularly-educated barrister, gave his decided opinion in favour of the authority of the chief judge's appointment: in consequence whereof,

Governor Hislop issued the following proclamation.

TRINIDAD.

A PROCLAMATION.

*By his Excellency THOMAS HISLOP, Esquire,
Lieutenant-Governor and Commander-in-Chief
in and over the said Island and its Depend-
encies, &c, &c, &c.*

WHEREAS his Excellency General Sir RALPH ABERCROMBY, by a certain commission under his hand and seal, bearing date the 1st day of *March*, 1797, did, by virtue of the powers in him then vested, constitute and establish a court or tribunal within this island, and thereof appointed JOHN NIBELL, *Esquire*, to be chief magistrate, chief judge and auditor, during his Majesty's pleasure, in and over the whole and every part of the said island: and did thereby recite, (among other things,) "that the said island of *Trinidad* had submitted to his Majesty's arms, and that no provision had been made by the then late capitulation for continuing the *Spanish* form of law in the administration of justice in this island, and that that form

of law had been continued solely by his circular letter to the captains of quarters and other magistrates; and that, in order to avoid the confusion which might arise from too strict an adherence to the forms of that law under an *English* government, particular directions would be given him, the said JOHN NIELL, in his instructions from Colonel PICTON, (who was then appointed Governor of the said island,) to explain fully his, the said Sir RALPH ABERCROMBY's intention and meaning in that particular: and also that he, the said Sir RALPH ABERCROMBY, had thought it necessary to remove from his office the then late assessor-general, and did not think proper to appoint any other person to that office: and he did thereby direct him, the said JOHN NIELL, to proceed in all civil and criminal causes without an assessor, however contrary that might be to the *Spanish* form of law: and did thereby also direct that all sentences passed or signed by him the said JOHN NIELL, without an assessor, should have the same force, and be carried into execution in the same manner as if the same had been signed by an assessor: and did likewise thereby charge and command the said JOHN NIELL to pay particular attention to the *curtailing* and *simplifying* all law-suits, and to bring

every process to as speedy a conclusion as the nature of the cause would admit, agreeably to the dictates of his own conscience and judgment, and the instructions he should receive from Colonel PICTON, however contrary to the practice of the tribunal, under the (then and now) former government." And whereas it appears that the said JOHN NIELL did, in virtue of the said commission, exercise and execute the duties and functions thereof to the full extent for a length of time, and whereas it doth not appear that his Majesty hath been pleased by any act whatever to annul or make void the said commission, or the court thereby established as aforesaid: and whereas great disputes have of late arisen between the tribunal of the Alcaldes in ordinary and the Consulado or commercial court, in the said island, as to their respective jurisdictions within the same; and in consequence thereof, proceedings have been delayed, and justice retarded: in order, therefore, to prevent such disputes in future, as well as to obviate as much as possible, the many difficulties and inconveniences which this colony and the inhabitants thereof labour under, by the prolixity of proceedings as they are carried on according to *Spanish* form; as also the frequent complaints and delays in civil and criminal mat-

ters, I HAVE THOUGHT FIT, by and with the advice of his Majesty's council, to issue this my Proclamation, and I do hereby publish, declare, and make known, that from and after the day of the date hereof, the said tribunal or court so as aforesaid consituted and established by Sir RALPH ABERCROMBY, shall be in full force, and shall be open to receive, prosecute, hear and determine *all* civil and criminal matters, causes, and disputes that have happened or arose, or which shall happen or arise within this island and its dependancies; and the said JOHN NIELL shall continue to act therein, in the same manner as he did immediately after the capitulation of the said island, during his Majesty's pleasure. And I do hereby enjoin and command all Alcaldes, commandants of quarters, judges, and other officers of justice, and also all and every other person and persons within the said island to pay due obedience hereto, and to govern themselves accordingly.

Given under my hand and seal at arms, this third day of *April*, in the year of our Lord 1806, and in the 46th year of his Majesty's reign.

THOMAS HISLOP.

By his Excellency's command.

W. HOLMES, *Secretary*.

The court will sit every day in the week, Sunday, Saturday, and holidays excepted; and Wednesday and Friday are the weekly court-days appointed to hear and determine causes till farther notice, at ten o'clock in the morning.

JOHN NIELL.

We now find the chief judge restored to the full exercise of the office, from which he had been suspended by Governor Picton. It is natural to conclude, that, if his conduct had deserved suspension from office, his restoration would have given disgust to the community. But, on the contrary, it met with general approbation: and the re-establishment of his court with the extension of its jurisdiction, is the most popular of any act of General Hislop's government up to that period. For it removed criminal causes out of the tribunal of the Alcaldes, who, hitherto, had inflicted, or advised the infliction of punishments not now authorised in any Christian country:—such as torture, mutilation, and burning alive; even in cases where guilt was doubtful; while, at times, they pursued an opposite conduct: for, under the influence of prejudice, passion, or party, they

would screen from justice even persons accused of capital crimes.

The tenor of Sir R. Abercromby's instructions, and the proclamation of General Hilslop, are sufficiently explicit and justifiable in the motives for taking criminal as well as civil causes out of the tribunal of the Alcaldes, and transferring them to the court of the English chief judge. And, so decided is the present Governor to bring causes of every description into the court of the chief judge, that even matters of dispute relative to real property, and the affairs of planters, by petitioning the Governor, may be now tried before this judge. And causes, which have been long pending before the Alcaldes, may, also, be removed into the chief judges court. For, upon petitioning the Governor, he grants an order for the Alcaldes to deliver over the proceedings, to the proper officer, for that purpose. Nothing can more strongly demonstrate the absolute necessity, felt by all parties, for some effectual change to be made in the jurisprudence of this long neglected, and, therefore, unprosperous colony.

From the time of this proclamation, English lawyers were admitted to practice in this court: and, it was ordered, that no person should be allowed to appear for another, or plead at this

Bar, but such as may have been called to the bar in England, or Ireland: *excepting, only*, such persons, who may, at any time, be appointed His Majesty's *Attorney* and *Solicitor general*; as though less degrees of legal rank, abilities, and knowledge, were necessary in His Majesty's service, than in common practice.

This absurd law may be explained; for, on inquiry, it will be found, that the *Attorney-general of this island has not been called to the bar, either in England or Ireland.*

Though this court now assumed the appearance of something like an English court, yet it was not more so in effect; because it had not been His Majesty's pleasure to declare, that English law should be in force. Therefore, there were very numerous and great objections to the constitution and practice of this court, notwithstanding the earnest endeavours of the Chief Judge to conduct it "according to the best of his abilities and conscience."

Our Judges appointment is not according to the statute, 13. W. III. c. 2; but, *durante bene placito*. And, although this only refers to His Majesty's pleasure, yet it must be recollected, that Governor Picton was *pleased* to suspend him from his office; and it has *pleased* Governor

Hislop to restore him to it. In such a situation, it is scarcely to be expected, that he will be able to maintain that dignity and independence which ought to distinguish a Judge.

“The security for the impartial administration of justice,” in all cases, but more “especially in decisions to which government is a party, is the independency of the Judges.” — “The judges of the land become not unfrequently the arbitrators between the king and the people: on which account they ought to be independent of either; or, what is the same thing, equally dependent upon both; that is, if they be appointed by the one, they should be removeable only by the other.”*

In these distant parts of the realm, where, in proportion to the distance, corruption is more to be apprehended, and more difficult to be exposed to the government at home; why should His Majesty's subjects be excluded from the benefit of “the noble improvement of that law,”† which “enacted at the earnest recommendation of the king himself from the throne, the judges are continued in their offices during their good behaviour;”—“and their full salaries

* Paley's Moral and Political Philosophy, v. II. p. 235.

† Statute I. Geo. 3d. c. 23.

absolutely continued to them during the continuance of their commissions." It will immortalize the name of George the 3d, who was "pleased to declare," — "that he looked upon the independence and uprightness of the judges, as essential to the impartial administration of justice; as one of the best securities of the rights and liberties of his subjects; and as most conducive to the honour of the crown."*

A Judge ought not to hold any situation incompatible with the exercise of his judicial functions; for instance, such as a seat in the Council of the Island, with the advice of which the Governor performs the executive part of the government; and of which, also, the Judge may happen to be the senior member: in which case, he presides there in the absence of the Governor. And, whenever a constitution similar to that of other colonies shall be established here, the executive might devolve upon the Judge, should he be the senior member of the Council, at any time during the Governor's absence, or on his decease. But, "the first maxim of a free state is, that the laws be made by one set of men, and administered by another: in other words, that the legislative and judicial characters be kept separate."

* Blackstones Com. vol. i. p. 267.

“ When these offices are united in the same person or assembly, particular laws are made for particular cases; springing often times from partial motives, and directed to private ends; whilst they are kept separate, general laws are made by one body of men, without foreseeing whom they may affect; and, when made, must be applied by the other, let them affect whom they will.”*

And Blackstone says,† that, “ in this distinct and separate existence of the judicial power in a peculiar body of men, nominated indeed, *but not removable at pleasure*, by the crown, consists one main preservative of the public liberty; which cannot subsist long in any state, unless the administration of common justice be in some degree separated both from the legislative and also from the executive power. Were it joined with the legislative, the life, liberty, and property of the subject would be in the hands of arbitrary judges, whose decisions would be then regulated only by their own opinions, and not by any fundamental principles of law; which, though legislators may depart from, yet, judges are bound to observe. Were it joined with the executive, this union might soon be an over-ba-

* Paley, v. 2nd. p. 232.

† Com. vol. 1. p. 268.

lance for the legislative. For which reason, by the statute of 16 Car. I. c. 10. which abolished the court of star-chamber, effectual care is taken to remove all judicial power out of the hands of the King's Privy-Council; who, as then was evident from recent instances, might soon be inclined to pronounce that for law, which was most agreeable to the prince or his officers. Nothing therefore is more to be avoided, in a free constitution, than uniting the provinces of a judge and a minister of state."

Although the judicial character may be composed of every other requisite qualification, yet it is deficient in the most material point, if there be not a well-grounded knowledge in the constitution and laws of the country: the study of which ought to have been followed, not merely as a part of general education, but as a professional acquirement. For, however delightful the pursuit, and gratifying the discovery of truth, in the study of the first principles of right and wrong; yet, the mind, engaged in the research from such motives alone, will not endure the fatigue which must necessarily be encountered, in order to become sufficiently profound in the science of the law.

These remarks would be unnecessary and impertinent, if a proper attention were always paid

to the appointment of Judges in the Colonies. The unhappy situation of a Judge, *not learned* in the law, (called in the Spanish tribunals a judge *lego*,) is so elegantly delineated in a modern foreign publication, that I cannot refrain from making use of it.

“ The first quality we demand in a judge is legal capacity. I can scarcely conceive a more noxious, and at the same time more miserable being, than one ignorant of the law, which he undertakes to expound. If his motive for embracing a charge to which he feels himself incompetent be the cupidity of gain, he begins by prostituting the most august of all functions to the most despicable of all passions. If his ambition prompt him to assume a character which his presumption leads him to suppose he may fulfil, he merits the fate that rewarded the rashness of Uzza for stretching forth a feeble and unhallowed hand, to uphold the ark of the Lord. Instead of being a priest of justice, regularly initiated, and deputed, like the Roman Vestal, or the Persian Magus, to watch over the perpetuity of the sacred flame, he is a sacrilegious intruder, that profanes the temple, and dishonors the ministry. To disentangle the intricacies, to apply the principles, to extend the consequences, to reconcile the contradictions, and to elucidate

the spirit of a vast and irregular code, are the daily duties of his office, for which no elevation of genius, or depth of penetration, can singly qualify him; but, on the contrary, the very lights that would enable him to tread with security and satisfaction, in any other path, in this may only serve to lead him astray. Without the torch of legal science he must be forever involved in darkness and perplexity. He will be compelled to select, as guides, those whose tract it was his duty to illuminate, but whose interest it is to mislead him; and whom, instead of weilding, as auxiliary troops, in his crusade against sophistry and chicane, he converts into insidious enemies, or merciless tyrants. Conscious of his impotency, his mind must either continually oscillate like a pendulum, or be open to the dominion of every usurper. He can never dare to trust himself beyond the narrow circle of his own experience, lest he should fall at every step, nor ever go right, without having reason to fear that he may go wrong. Should he adopt that intrepidity of decision, which belongs almost exclusively to ignorance, and attempt to cut the Gordian knot that he is too inexpert to unravel, his temerity is criminal, although crowned with success; and the adjudication, as it passes from his lips, can never fail

to impregnate them with all the bitterness of un-
availing regret.*"

To which of our colonial Judges these strictures may apply, I do not take upon myself to determine: and, of our own Chief Judge, I confess a liberal opinion of his intentions; and must, in candour, state, that I believe "substantial justice" has always been done, to the extent which the peculiar circumstances would admit of. But my personal esteem for him must not be allowed to restrain my impartial opinion of his *situation*; which may, hereafter, be filled by men, whose knowledge, character, and conduct we cannot now calculate upon; and which, therefore, ought to be provided for. But the strongest parts of the above quotation, are, unquestionably, applicable to the *Collagues* in the Consulado, if they are to be considered as *Assistant Judges*. And, even, if they are to be considered only as *Arbitrators* or *Jurors* we shall still find equally great objections to them, according to the practice observed in that court. Their powers seem to be complicated and confused; for it is probable, that the origin of their appointment was both to assist the Judge and act as jurors: but they are certainly con-

* Port-folio, vol. i. p. 263.

sidered, now, to be a sort of arbitrators ; and yet they sit with, and act as assistants to the Judge. It could not be contrived, however, that they should be less qualified for that situation than they are ; even, though it were so contrived in order the easier to impose upon or mislead them ; or, that they should not eclipse their superior, the Chief Judge. For any man, however upright and independent, is objected to as a colleague for the Judge, if he happen to be a lawyer ; although, to common sense, *that* appears to be the very reason why he ought to be the most eligible.

If they are to be considered as arbitrators, the manner of proceeding is still as objectionable ; for, at the same time that the parties may fix upon persons whose talents and intelligence *may* adapt them to the situation, they also take care to select them from among those friends, who are most attached to their persons and interests, or most averse to the opponent ; and by a previous, partial, communication of their case, supported with every colourable argument, they first ascertain the disposition to decide in their favour, and then elect accordingly. So that the persons who are to decide, sometimes make up their opinion, and prejudice the matter before they go into court. There cannot be

any thing more preposterous: but the rest of the proceeding is at least equally so; for, although they are sworn to do justice *between* the parties, it is evident, from their frequently advocating the cause of the party by whom they were chosen, that they forget the duty which they have to perform is that of indifferent judges; and, often, by persisting to support, what they also wrongly consider the conduct of an arbitrator, they expose an *adherence* to the party by whom they were selected, as well as a *too intimate* and *previous* knowledge of the case.

Though this may not be evident in the conduct of all *Colleagues*, yet such a bias too frequently appears to be inseparable from Judges, who are chosen by the parties.

When the *Colleagues* are not promptly unanimous in their opinions, or there is not a majority in favour of one opinion, they retire to consider and debate upon the decision that ought to be given; and, should they, ultimately, be equally divided, as often happens, from being equally *chosen* and *interested* for the friend whose cause they consider themselves engaged in; then the Judge is called in as umpire, and his opinion is the decision. But it most generally happens, that the pressure of many pending causes will

not allow of the Judges leaving the court, (for the opinions are not given in open court,) and then the decision, in any case of importance, is postponed until the next court-day. This, added to the former opportunity of privately producing impressions upon the minds of the *Colleagues*, renders this mode of trial still more inferior to the trial by jury. For as there is not, in the mean time, the least prohibition or restraint of communication between the parties and the *Colleagues*, and even the Judge; influence can be exerted over them, even in the *routine* of common conversation through the society in which they live; and those who have a proper knowledge of human nature will allow, that it is absurd to suppose, the interested persons will lose any opportunity of arguing or influencing the *Colleagues* into a decision.

When either party is dissatisfied with the decision, and if the matter in dispute be of sufficient importance, an *appeal* may be had to the Governor in council, as was the case in the *Consulado*, previous to the proclamation.

But, all that can be expected from an appeal, in most cases, is, the confirmation of the evil; for, when it happens that a Judge is also a member of a court of appeal, nothing less can be expected than that his influence in the coun-

cil will confirm the decree, which, as a Judge, he has issued from his court.

Here may be applied, with peculiar propriety, all the arguments before quoted in favour of the distinctness and separation of the judicial from the legislative authority. And I will add, in the spirited and 'elegant language of a favourite writer, "the pure and impartial administration of justice is perhaps the firmest bond to secure a cheerful submission of the people, and to engage their affections to government."

"It is not sufficient that questions of private right or wrong are justly decided, nor that Judges are superior to the vileness of pecuniary corruption. Jeffries himself when the court had no interest, was an upright Judge. A court of justice may be subject to another sort of bias more important and pernicious, as it reaches beyond the interest of individuals. A Judge, under the influence of a government, may be honest enough in the decision of private causes, yet a traitor to the public."

Under the accumulated evils attending the peculiar situation of our agriculture, commerce, credit, and jurisprudence, it is easy to apprehend that persons of all parties and nations in the island, should now be unanimous in a desire for a change in the system. *Judiciarum levitate,*

ordo quoque alius ad res judicandas postulatur.

But what that change ought to be, was not agreed; although it might be expected, that the English part of the colony, at least, would naturally desire the same constitution which the other colonists enjoy. This however was not exactly the case.

Certain members of the Council, with a few of those men who are to be found in every country the ready tools to party and power, with a view to their own aggrandizement, and the gratification of their ambition, were found to dissent from the general wish: for, it had become general, notwithstanding the base means that had been used at the time of the cession, to prejudice the Spaniards and French against the establishment of the British constitution. Nor, did the persons alluded to, hesitate to procure the opposition of the foreigners, at the expence of the peace and amity of the different inhabitants, by inflaming their minds against the natural British subjects, in representing them to have contrived schemes for the introduction of laws to perplex and harass the foreigners, until they should leave the country in disgust; sacrificing their estates to the English, who were represented, as intending to enrich themselves by purchasing plantations far below their real value. The man who, by se-

cret and false representations, disturbs the peace of a community, and the ruffian who openly invades and destroys it; as Junius says, "are embarked in the same bottom." But the former is the more dangerous, because, if not detected, he cannot be resisted.

The decreasing prosperity of the Colony has convinced the foreigners of the falsehood of this shameful fabrication: for, many of them would have willingly placed themselves out of the reach of the *present* system, instead of waiting to be driven away by the *next*; if they could have sold their estates, so as to realize, even, two-thirds of their value. But they cannot now find purchasers, even on the lowest terms, *ready to buy in order to get rid of them*; and they now desire the establishment of the British colonial system, as much as they were formerly *taught* to deprecate it.

The Members of the Council, and their Partizans, who are averse to the English colonial system, wish to engross to themselves the exclusive power of legislating with the Governor, in the form of a *legislative Council*. And we have reason to believe, that great pains have been taken to impress an opinion upon the minds of his Majesty's ministers, that such a mode of administering a code of *mixed* laws, is not only expe-

dient and necessary, but that it is the wish of the different descriptions of inhabitants; which the following document proves to be untrue.

To the King's most excellent Majesty
in Council, the petition of the under-
signed proprietors of lands, planters,
and merchants, resident in the island
of Trinidad,

Humbly sheweth,

That, on the taking of the said island by your Majesty's forces, one class of your petitioners were induced to purchase and improve large tracts of land, and the other to invest their capitals in trade, which they have, till lately, carried on upon a most extensive scale, under the most decided conviction that British laws must and would be the natural consequence of the success of the British arms.

With what success British policy has been had recourse to in your Majesty's other West-India plantations, the sums they have added to your Majesty's revenues and the solid wealth they have remitted to the mother-country will best manifest.

That an Island, so notorious for its fertility, and all other of your Majesty's West-India co-

lonies, so happily situated for the purposes of trade, should not have answered the well-founded expectations of your petitioners; that commerce should have daily decreased, till it has arrived at a state of unprecedented stagnation; that cultivation should have languished for want of credit and confidence nearly to the utter ruin of all concerned in it; they can attribute to no other cause than the continued existence of the *Spanish law*, a law here entirely misunderstood and constantly misconstrued, which has at all times cramped and arrested the industrious arm of the planter, and destroyed even the vestiges of faith between man and man.

Your petitioners *disclaim* having ever given the slightest approbation towards the establishment of a *legislative Council* in the Island, proposed for your Majesty's royal consideration; they equally abhor the idea of the existence of any power to which might be delegated the authority of framing laws for the purpose of affording partial protection, or which would have the effect of shielding the fraudulent debtor from the just claim of the fair creditor.

It is well known that your Majesty's subjects in the West Indies cannot be exceeded on the account of loyalty by the inhabitants of any other part of your Majesty's dominions, and we,

your Majesty's subjects of Trinidad, feel ourselves inferior to none on that score.

That *the number of respectable Spaniards in the Island, compared with the number of British-born subjects, possessing property, is so small, and those few so well disposed towards the English government*, that there cannot exist a doubt that they would prefer the English law, with all its excellencies, (notwithstanding national prejudices,) to the Spanish code, administered as it is here.

The continued increase of English population, and the influx that the event of English laws would occasion of Englishmen, of capital, and of talents, can give rise to no other hope but that such laws would be forcibly and faithfully administered.

Your petitioners, therefore, most humbly pray your Majesty, of your most gracious condescension, to take this their Petition into your royal consideration, and, with the advice of your Council, to confirm them in the rights they claim as British subjects, by granting to this island the British laws, in their fullest extent, as administered in the other British islands.

And your Petitioners, as in duty bound, will ever pray, &c.

January 12, 1805.

(Signed)

Wm M'Kenzie, by his attorney,
James Rigby.

*† James Rigby.

John Nugent, by his attorney,
I. R. Purcell.

Arthur Robertson.

¶ James Lowe.

Chris. Hewitson.

John O'Meara.

A M'Donald.

†† Andrew Clark.

John Sanderson, M. D.

† Alex. Williams, M. D.

† Charles Audain, by his attorney,
J. Rigby.

John O'Brien.

J. Townshend Pasea.

John Shaw.

John Waters.

Robert Prentis.

Wm Fitzgerald.

¶ Francis Joseph Mendez.

Matthew Leeson, by his attorney,
A. C. Cruikshanks.

† Robert Pendleton.

James Johnston.

¶ Wm Coxall.

Thomas Wray.

Wm Perry.

James Barry, by his attorney,
D. Barry.

Eccles and Co.

Neilson and Hunter, by
J. Eccles.

†¶ Jacob Simmons.

John Edwards.

† Wm Harrison and Co.

A. C. Crookshanks.

Richard Galway.

James Bruce and Co.

G. and W. Dickson.

Edgar, Lyon, and Co.

† J. B. Littlepage.

† Wm Browne.

Francis Robson.

Joseph Taitt.

Thomas Williams.

¶ Wm Thornhill.

† Joseph Lambot.

Rivers, Campbell, and Co.

A. Pinto.

Wm Redhead.

Wm Paterson.

Alex. Badenach.

Daniel Allt.

B. Bennet.

John Hallinan.

John M'Donald.

Wm Pinto.

Edward Gallie.

I. R. Smith and Co.

A. Ritchie.

† Wm Wardrop.
 George Gordon.
 R. M'Donald, by George
 Gordon.
 A. Watherston.
 I. A. Cipriani.
 George Doncaster.
 Wm Gray and Co.
 T. Arnaud Caduc.
 Clark and M'Intosh.
 Sangster and Martin.
 Walter Moore.
 Wm Kewley.
 Richard Clarkson.
 A. Neil.
 Richard Joseph, sen.
 Simphor Gardie.
 A. Nivet.
 C. Marotte.
 J. Romney, by his attorney,
 T. Drape.
 † Thomas Drape.
 Lucy Thomson.
 A. Watherston, for Lach.
 M'Bean.
 John Campbell,
 Wm Howard.
 Pat. O'Brien.
 John Munro.
 Thomas Edwards.
 Wm Williams.
 John Sewell.
 James Taylor.

James Harvey.
 Matthew Smith.
 M. Gallagher.
 Tho. Balleny.
 John Carr.
 ¶ Man. Sorsanno.
 John Dawson.
 ¶† Antonio Portell.
 Wm Jarvis.
 Martin Semper.
 Edward Carney.
 Thomas G. Tyler.
 Pre. Angeron.
 † Andrew Wilson.
 Charles Stewart Middleton.
 John Taylor.
 J. D. Horsham.
 Clement Johnston.
 David Clarke, for Self and
 F. Clarke.
 Wm Foulk.
 Thomas Browp.
 James Hall.
 J. H. Gemapet.
 Robert Thorborne.
 Pierre Vandon.
 Remir Dentry.
 Gen. Capett.
 J. W. Rambert.
 Daniel M'Grath.
 Frederic Lynch, M.D.
 John Pietrie.
 Marc Franceschi.

Bernard Pere.
 Michel Pietrie.
 David King.
 Wm Burton.
 Daniel Murray, per William
 Burton.
 ¶ Valentina de Basanta.
 † Wm Walker.
 P. T. Winterflood.
 Richard King.
 R. J. Padmore.
 Wm Woolward.
 Hugh Lacoste.
 John Wilson.
 C. Augustus Hayes.
 Wm Macomb.
 Alex. Cruickshanks.
 John Davidson.
 James Shennan.
 Anthony Moore.
 Antoni Gardie.
 Wm Doyle.
 ¶ — Massiany.
 P. M'Namara.
 Wm Tolmie.
 ¶† Jn Ventura Indave.
 Jos. T. Mendez.
 Franc. Salazar.
 Frs. Feance.
 James Meany.
 J. Platt.
 Strother Rule.
 J. R. Purcell.

Wm Alexander, by his at-
 torney, S. Rule.
 Thomas Nugent.
 John Thatcher.
 John Browne.
 James Garraway.
 Thomas Smith.
 G. W. Munro.
 Adam Fife, jun.
 Thomas Emery.
 John Montgomerie.
 Charles Farril.
 John M'Lean.
 David Bart.
 † John M'Donald.
 John Young.
 Hugh Robertson.
 Roger Pemberton.
 J. Banks.
 John Large.
 Wm Johnston.
 Aaron Jesse.
 ¶ J. Rivers.
 Hugh Blair.
 ¶ John Outen.
 B. Newton, by his attor-
 ney.
 H. Hall.
 V. Sanda.
 ¶ John Lynch.
 Hubert Boureaux.
 F. Bernard and Co.
 John Garcin.

Paul Vessiny, jun.	¶ Robert Mitchell.
V. Houillier.	Ph. Courmand.
¶ W. Patrice.	E. Renuson.
Peter Morrison.	Peter Turquand.
Thomas Stephens.	† Bme Portell.
Jacque Latour.	John Deravine.
Pesant Rambert.	John Molony.
Gen. Capet, fils.	Germainde Pollustrin.
Augustin Ally.	Maxiam de Casa Nova.
Jean Duviviere.	Louis Lopez.
Charle Fortin, fils.	Ph. Alcazar.
Louis Briaise.	Jacques Franceschi.
Jean Duboy.	Wm Penny.
Gen. Julien.	¶ Thomas Mayan.
Alliston Juvenal.	Pablo Guissepi.
Alex. J. W. Parker.	Jne Bpte Huet.
Wm Little.	Francis Ligoure.
H. Greenway.	Juan de Aristimano.
¶ James Anderson.	Aug. Seguy Maricheau.
John Johnston.	Louis Lebre.
Phil. Camm, by his attorney,	Wm Burn.
J. Johnston.	Shipley and Langley, by their
† Robert Bond.	attorney, R. Davis.
James Davitt.	Rowland Davis.
J. Le Bis.	Josh. Graham.
† Thomas Palmer.	Wm Benning.
Roger Pemberton, jun.	† John H. Jacobs.
Walter Stott.	John Armour.

The address of the year 1802 was subscribed by 109 British subjects, notwithstanding it was arrested in its progress; and their would have

been a considerable number of foreign subscribers, but their subscriptions were not solicited; and, in cases where they were volunteered, they were not admitted, as that address was from the British inhabitants alone.

That address did not convey complaints; for, it was presumed that our grievances would come by other channels to the knowledge of his Majesty's ministers; and that, if the expression of our hopes could be thus checked by authority in the colony, complaints would be not merely disregarded, but aggravated by insult.

It cannot be denied that we had "a right to be heard, and our petitions, if not granted, deserved to be considered." But, when we found that "force was employed instead of argument," and silence was imposed where conviction could not be produced, we began to apprehend, that "violence and oppression abroad might be supported by treachery and submission at home." — "When the civil rights of the people" can be "daringly invaded on one side, what have we to expect but that our political rights should be deserted and betrayed, in the same proportion, on the other?" Therefore, nothing more was expressed than a hope, that, "in due time, his Majesty would be pleased to extend to this colony the privileges and protection of the British

Constitution, as experienced by a free représentation in a house of assembly, and in the trial by jury." — Supposing, as Bryan Edwards asserts in the case of Jamaica, that " it was admitted, the English who captured the island carried with them, as their birth-right, the law of England as it then stood," or, at least, as much of it as was applicable: and concluding, also, with Locke, that " the conquering people are not to be slaves by conquest, and wear their laurels only to shew they are sacrifices to their leaders triumph.*"

The Address of the year 1805 is subscribed by 232 persons; of whom 171 are British planters and merchants, and the rest Spaniards and Frenchmen.

Of the very few Spaniards remaining in the Island there are not more than twenty who are of much respectability or influence. Among those there are some of the highest officers of the ancient Spanish government; and it is material to state, that, of these, the Address contains the following names.

MANUEL SORSANNO, *Contador, and now Commandant of the Quarter of Arima.*

* On Civil Government.

F. J. MENDEZ, *now Commandant of Maraval.*

VALANTINE DE BASANTA, *Commissary of population, and now Commandant of L'Esquibos.*

B. PORTELL, *Alguazil-Mayor, or High Sherif, and now Member of the illustrious Cabildo, and Alcalde of the first Election.*

ANTONIO PORTELL, *now Commandant of Santa Cruz.*

JUAN VENTURA INDAVE, *Member of the illustrious Cabildo, and Commandant of Marracas.*

JAMES MEANY, *Secretary to the Spanish Government.*

As a proof that the expressions of this Address are the general sentiments of the colony, it may be stated, that, besides the great number of respectable persons of all nations, there are persons of the highest rank and office who have subscribed to it; — such as follow :

* 1 Member of his Majesty's Council for the Island.

† 7 Members of the illustrious Cabildó, or Spanish Court.

‡ 15 Field-Officers of the Militia,

¶ 18 Commandants of Districts.*

* See the names as per mark in the list.

After thus demonstrating the dissatisfaction of one system, and the reiterated prayers for the other from such a great majority of the most respectable part of the community; surely, the remaining few will not pretend to deny, that the general voice of the people is contrary to their representations: which have no less an object in view, than to prevent their countrymen from possessing the dearest privileges of Englishmen.

This illiberal disposition became evident to the people: who, for some time, were unwilling to show an active opposition: but, *venisse tempus, — non jam ut commoda sua, sed ut vitam, salutemque totius provinciæ defenderem.*

“ In questions *merely* political, an honest man may stand neuter. But, the laws and constitution are the general property of the subject; not to defend, is to relinquish;” and, therefore, at last, it became their duty “to determine whether they should constitutionally assert their rights,” or, by their silence, “make an humble slavish surrender of them.” — “To a generous mind, there could not be a doubt. We owe it to our ancestors, to preserve entire those rights, which they have delivered to our care: we owe it to our posterity, not to suffer their dearest inheritance to be destroyed. But, if it were possible

for us to be insensible of these sacred claims, there is yet an obligation binding upon ourselves, from which nothing can acquit us; a personal interest, which we cannot surrender. To alienate even our own rights, would be a crime as much more enormous than suicide, as a life of civil security and freedom is superior to a bare existence; and if life be the bounty of heaven, we scornfully reject the noblest part of the gift, if we consent to surrender that certain rule of living, without which, the condition of human nature is not only miserable, but contemptible."

And so constantly does it happen, that all men, under the same strong circumstances, feel and act alike; that the people of Trinidad naturally decided as the people of Jamaica did before them: who, when in a similar situation, an improper constitution was proposed, "rejected it with indignation. No threats could frighten, no bribes could corrupt, nor arts nor arguments persuade them to consent to laws that would enslave their posterity."*

The complaints which are set forth in the address of the inhabitants of Trinidad, and the account which I have given of the evils existing amongst them, are confirmed by the petition of

* B. Edwards Hist. W. Indies, v. i. p. 177.

our fellow-subjects in London; who addressed his Majesty upon the occasion in the following terms.

To the King's most excellent Majesty
in Council, the petition of the mer-
chants of London, trading to Tri-
nidad,

Humbly sheweth,

That your petitioners are informed, a report has been made to your Majesty's ministers by the Governor and Council of Trinidad; recommending the establishment of a legislative council in that colony, with power to frame such new laws as they from time to time shall think fit.

Your petitioners beg leave to state, that in consequence of the conquest of Trinidad; they made advances to many inhabitants of that settlement, being persuaded that if it was restored at the peace, his Majesty's Ministers would by treaty secure the British creditors an opportunity of obtaining payment, and that if it were ceded, British laws for recovery of debts would be established there, as they had been in the other West-India Islands annexed to your Majesty's dominions by conquest.

That by the unqualified adoption of the measures now proposed, the *recovery of debts* would *depend upon* such laws as might be enacted by *this council*, composed in a great measure of the *very inhabitants to whom these advances have been made*, and *who*, your petitioners humbly conceive, *ought not* at the same time *to be judges and parties*.

Your petitioners therefore humbly pray, that, as far as relates to the recovery of debts, the laws of Great Britain, under which her other colonies have risen to their present height of prosperity, be established in Trinidad. And your petitioners, as in duty bound, &c. &c.

(Signed)

Joseph Marryat.

Bogle, French, Brownes, and
Canning.

D. H. and J. A. Rucker.

P. Simond and J. and J. P.
Hankey.

Phyn, Ingle, and Co.

Baillie, Thornton, and Camp-
bell.

Alexander Henry and Co.

Manning, Anderdon, and Co.

Lushington and Mavor.

Francis Baring and Co.

Villigible, Corson, and Co.

Thomas Latham.

George and John Gray.

Simpson and Davidson.

Gibbons and Knight.

Lang, Turing, and Co.

George W. Wye and Co.

John Sadler.

George Baillie and Co.

Charles Bartrum and Co.

As the merchants of London have attributed, to the council of Trinidad, strong motives for proposing to barter away the liberties and privileges of their fellow-subjects and their posterity, it may be satisfactory to state, who are the honorable members of that board.

List of the Council of Trinidad.

JOHN NIELL, Chief Judge.

ARCHIBALD GLOSTER, Attorney-General.

COLONEL RUTHERFORD, Surveyor-General.

JOHN SMITH, Commandant of the district of Diego Martin.

ST HILLAIRE BEGGORAT, who *advised* the torture of Louisa Calderon.

JOHN BLACK, who *ordered* the torture of Modeste.

JAMES RIGBY, Esq.

It is due to the independent spirit and patriotism of Mr Rigby to record, that he was the only member of the council who signed the address of 1805; which protested against the legislative council, and prayed for a house of representatives, and trial by jury; according to the British constitution and laws.

It is easy to expose whence this *Junto* have borrowed the plan of the system which

they propose ; and to show, that it is neither expedient nor applicable to the state of this colony ; nor is it even authorised by precedent.

It is proposed, that a council of twelve or eighteen members shall be appointed by the Governor, to be approved by the king ;— and this council, with the Governor, is to legislate for the colony ; make laws, levy taxes, and do all those things which the councils and assemblies of other islands, jointly, do and perform.

The earliest precedent which we have for a *Legislative Council*, is previous to the settled state of the government of Jamaica: when, as formerly stated, commissioners were appointed ; and, some dying, others returning to England, it appears, that Major Sedgewicke, by an instrument of government, constituted a supreme executive council for managing the general affairs of the island. But this was done within a few months after the conquest of the colony, without authority from the government of the mother-country : and, when, after five years of experience, an order from home directed the appointment of an *executive council* ; the government, even in that day, did not assume the prerogative to appoint this legislating council ; but ordered the Chief Governor, D'Oyley, “ to erect courts of judicature ; and, with the

advice of a Council, to be elected by the inhabitants, to pass laws suitable to the exigencies of the colony."*

As far as the election of the Members of this Council was to be in the people, this case is not a precedent, favorable to the selfish plan of those who oppose a representative assembly: and, therefore, it is likely that they have borrowed it from *Stokes's Constitution of the Colonies*; which more aptly favours their arbitrary, ambitious, and insidious views. This gentleman, who was a colonial Judge, says, he would recommend one measure to Government, which, however chimerical it may appear, will, he flatters himself, give no offence to any one. He recommends that the Colonists shall not have a right to chuse representatives, — but that the parliament of Great Britain shall always exercise the powers of legislation and taxation over them. And, with unparalleled effrontery, he asserts, that "such a colony would be as free as any the English ever had, and much more happy." Does he mean to state, that, because we have not the blessings of the British Constitution perfectly extended to us in our Colonies, we should be happier, and have more justice, and more

* B. Edwards Hist. W. Indies, v. i. p. 171.

liberty, without a house of free representatives, than with such an assembly? This is either an absurdity, or a libel upon our representative governments, and perhaps both. Surely this man did not know what it is *to be free*! How much merited reproach would this *American Judge* have escaped, had the editor of Blackstone been at his elbow to tell him, that, "to be free, is to live in a country where the laws are just, expedient, and impartially administered, and, where the subjects have perfect security that they will ever continue so; and, allowing some slight and perhaps inevitable imperfections, that *to be free, is to be born and to live under the English Constitution.*"*

Mr Christian could not have been more decided as to what it is *to be free*, nor would Stokes have had a doubt of the truth of Christian's definition, if they had lived in Trinidad ever since its conquest. And the greatest advantage that could be derived from a constitution framed according to the principles of Mr Stokes, would be in banishing from Great Britain all the dissatisfied and disaffected politicians, to live under such a government in Trinidad; whence they would return, after a few years

* Note to Blackstones Com. v. i. p. 127.

of purgatory and expiation, perfectly satisfied with what they had formerly complained of; and would declare, that, "to be free, is to be born and live under the English Constitution."

But how could Mr Stokes so far forget those principles of freedom, which he must or ought to have learned, even if he had never read any thing more than the Commentaries of that great teacher, Blackstone; who lays it down as a maxim, that, "in a free state every man, who is supposed a free agent, ought to be, in some measure his own governor; and therefore a branch at least of the legislative power should reside in the whole body of the people." — And farther, that it is only "in *tyrannical* governments the supreme magistracy, or the right both of making and of enforcing the laws, is vested in one and the same man, or one and the same body of men; and *wherever these two powers are united together, there can be no public liberty.*" And Junius says, "if any part of the representative body be not chosen by the people, that part vitiates and corrupts the whole."

It would be as impossible to account for this gentleman's shameful dereliction of such constitutional principles, as it is to excuse it; did we not know that, he, having been involved in the

unhappy dispute with the Americans,* had imbibed the current sentiments of the times against that people; and was little likely to correct his opinions, while he considered the *indemnity* for his losses and the *reward* for his adherence to the royal cause as to be obtained, only by suggesting new modes of exercising prerogative and arbitrary power, though *at the expence of the liberties of his countrymen and their posterity*.

Can any thing be more barbarously insulting to the colonists, or more disgusting to the royal Personage, whom he had the honor to serve; than, that, while he declares it to be "the pride of his life that he was born on this island;" which he says is "the only spot on earth that enjoys a free and happy constitution," he should be so basely corrupt, as to contrive and recommend the most effectual plan to enslave his

* "Having taken a decided part in the cause of Great Britain against her revolted colonies, he was, on the breaking out of the troubles in the southern provinces, made a prisoner by the Americans; and, after being confined some weeks, he was exchanged, with liberty to leave the country; on which he returned to Great Britain, and then began to digest the precedents he had collected, with an intention of making them public."

Stokes's Constitution of the British Colonies.

fellow-subjects; only because they were born or living at a greater distance than himself from the source of favour, freedom, and justice.

About this time, when this gentleman wrote this "chimerical" constitution of a colony, the circumstances of the times made such a work interesting; but, the particular causes alluded to, do not favor his plan, for the situation of Quebec was very peculiar; and, as a precedent, may be opposed by the measures which were found to be necessary in the cases of Dominica, St Vincents, Grenada, and Tobago; which, with Quebec, were ceded to his Britannic Majesty by the treaty of Paris, on the 10th of February, 1763.

His Majesty, by proclamation, "introduced the laws of England in general, into Canada *for the present*." This proclamation was attended by a code of instructions to General Murray, then appointed civil governor of Canada by the name of Quebec: but, it appears that the circumstances of Quebec (which were widely different from Grenada and the others, and still more so from those of Trinidad) required a change in the form of government: and, accordingly, the Quebec-bill enacted, that "from the first day of May, 1775, the commission under the authority whereof the government of

the said province is administered be revoked, annulled, and made void." And, by the said bill, it was enacted that a legislative council should be appointed by the Crown "to make ordinances for the peace, welfare, and good government of the said province."

It is very probable that this might be most expedient and desirable for the people of Quebec; as they were *Roman-Catholics* who had been *subjects of France*, bearing arms against England, possessing a country, access to which is denied by nature to our fleets and armies for six months in every year; and who, in numbers, were superior in proportion of five-hundred to one protestant or Englishman.

Therefore, the inhabitants more boldly demanded such laws as were known and understood by the majority of the community; and represented as ill adapted to the peace, welfare, and good government of the province, a mode of legislating, only partially known and understood, and capable of benefiting only a few protestants.

Certainly, where the proportion was five hundred Roman-Catholics to one Protestant; and, as appears by the Quebec-Bill, where the majority consisted of 65,000 persons, who were by the laws of England excluded from all offices, it

was natural that they should petition for the continuance of their ancient system ; under which, each, in his turn, enjoying the dignities, emoluments, and authorities of office, would feel a compensation for the absence of certain liberties ; which, never having possessed, they knew not how to value ; and, therefore, considered as no loss.

However, it ought not to be passed over in silence, that Quebec was treated with much more lenity and consideration than Trinidad ; for, “ the constitution of Great Britain would not permit the criminal laws of a despotic government (which were enforced without the intervention of a jury) to continue in any of its plantations : and, therefore, the Statute, 14 Geo. III. c. 83, was made, which permits to the inhabitants the exercise of the Romish religion, (subject to the king’s supremacy,) makes the laws of Canada the rule of decision there, in all matters of controversy relative to property and civil rights ; but establishes the criminal laws of England in that province.” *

But, far otherwise is our situation in Trinidad ; where, for ten melancholy years, we have experienced, in banishments, mutilations, tortures,

* Stokes’s Constitution of the Colonies,

and burning alive, all the terrific system of the Roman despotism in the most merciless and barbarous times!

Quas res luxuries in flagitiis, crudelitas in suppliciis, audritia in rēpinis, superbia in contumeliis efficere potuisset; eas omnes hoc uno prætorē, per triennium pertulisse.

CICERO. ORAT. IN Q. CÆCILIO.

The case of Québec is so far from being a precedent, that all the circumstances of our situation are directly the reverse of theirs. In Québec, the French were greatly superior in numbers to the English. In Trinidad, the English are much superior in numbers to the Spaniards. In Québec, although the people were allowed the liberty of exercising their religion according to the rites of the Romish church; yet Roman-Catholics were not allowed to hold commissions in the militia or other places of trust: but, in Trinidad, they are not only allowed to perform the Romish rites, but are, also, already in the militia; and, *even, in the Council.* In Québec, the captives petitioned for their ancient laws: but, in Trinidad, the conquered people have united with the conquerors, in deprecating the continuance of what the Canadians prayed for; and in praying for the establishment of the

constitution which the other English colonies enjoy.

Without urging any other of the peculiarities of Quebec, it appears sufficiently evident, that the plan adopted in the case of Quebec, is not a precedent for the government of Trinidad. But, it is worthy of particular notice, that, at the same time the legislative council was found necessary for Québec, the English constitution was given and confirmed to the islands of Grenada, Dominica, St Vincents and Tobago: and, instead of being afterwards annulled, it was found to be fully competent to the good government of those colonies, and has remained in force to this time.

It is true, that, three years after the first meeting of the assembly of Grenada, some dissatisfaction arose among the English inhabitants, upon his Majesty ordering two Roman-Catholics to be admitted into the council, and others to be eligible to the assembly on taking the oaths of allegiance and supremacy. But, the dissatisfaction of the English protestants, is no objection to the establishment of the English form of government; nor does it follow, that, because a colony is *partly* composed of Roman-Catholics, it is therefore incompetent to the establishment of a liberal mode of legislation. " Liberal

and enlightened minds at this day are not easily reconciled to the doctrine, that an adherence to mere speculative opinions in matters of faith, ought to drive any loyal subject from the service of his country, or deprive a man (otherwise entitled) of the enjoyment of those honors and distinctions, the distribution of which the wisdom of the laws has assigned to the Sovereign. Much less will it be thought that such a man is unworthy of that confidence which his neighbours and fellow-citizens, who are best acquainted with his principles and virtues, and are themselves of a different persuasion, shall think fit to repose in him." *

In whatever point of view this argument may be considered, it is not now of much consequence; as, already, two Members of the Council are Roman-Catholics; and I do not know, that, as such, they have produced any evil to the Colony: nor do I see what ill consequences can arise from a *certain, proper* proportion of the assembly being allowed to consist of such persons. Their religion, at such a distance from the seat of government at home, can never endanger either the church or state of the mother-country. But, as the great body of

* B. Edwards, v. i. p. 369

the Roman-Catholics in Trinidad, consists of persons who do not speak or understand the English language ; such as Spanish, French, Italians, &c. these may be ineligible to the assembly on account of their *language*, though not of their *religion*.

Hitherto, it appears, that no precedent exists to justify those persons, who are disaffected to the English colonial legislation, in their application for a legislative Council : but, on the contrary, the case of Tobago may be added to those already quoted, as strengthening the propriety of the prayer for the British constitution ; which has been preferred *even by the French* in the government of Tobago, when it has fallen into their hands by cession, or otherwise, at different times, on which occasions, the Council, Assembly, &c. have been continued, notwithstanding the number of French inhabitants ; and have been fully competent to the good government of the colony.

All these cases, even that of Quebec, have been supported by one and the same principle. The ancient system was restored in Quebec, because the majority of the inhabitants were French. The English system was established in Jamaica, Dominica, St Vincents, Grenada, and Tobago, because the majority was English.

And in Trinidad, where the English are so superior in number to the Spaniards, the same principle of action will be found equally expedient and proper; more especially as the Spaniards and other inhabitants join in the same prayer with the English.

As it so clearly appears, that the establishment of the British Colonial Constitution is generally desired, because it is most proper and expedient; it may excite surprise that the Governor for the time being should always unite, with a *partial junto*, to deprecate that measure. But, we need not be surprised, if we recollect, that such a system would interrupt the enjoyment of an almost *unlimited authority*,

“ They are not of a temper to relinquish power.”

As long as the present system remains, the measures of government hitherto pursued, will be followed up: for those who have occupied the avenues to authority, will be still the *same men* under the *same system*: their servile compliance to the ex-governor, and ready adaptation to whatever mind any new governor may possess, will procure them a strong recommendation from the former, and a welcome reception from the latter. Such men know how to “stoop

to conquer." Flattery and submission are the easy steps, by which they soon acquire an ascendancy over a man in an arbitrary situation; and, by involving him in the mazes of an ill-shapen, irregular, and unknown system, they soon succeed to the future direction of all his movements.

Nam imperium facile iis artibus retinetur, quibus initio partum est.
SALLUST.

And this is more especially the case in governments that are partly civil and partly military: because military men are generally appointed to such situations: — of which, as an evil, the author of the Colonial Constitution was sufficiently aware: for, notwithstanding that he would abridge us of our representative government, he would recommend *that the Governor be not a military man*. For he says, "if the gentleman who commanded the forces was the Governor of the island it might undo every thing."

This, however, is our very situation: and, indeed, it has appeared to be a part of the colonial system, to introduce military governors wherever it was possible to do it; — regardless of the liberties of the people, and the independence

of their representatives; and prejudicial to the peaceful modes of conducting colonial affairs. This situation, of the colonial governments, must have been most grievously felt during many years past; if we may draw a conclusion from the following paragraphs, quoted from a book, entitled, "Historical Sketches of Civil Liberty," published twenty years ago.

"The uniform practice of administrations, for a long time past, appears to have been, to appoint those men Governors who had the most political interest; but as to the point they ought to have previously taken into consideration, they seem never to have bestowed a thought upon it at all, namely, the *fitness* of the person for the office. What has been the result of such appointments? blunders; misconduct and violence have ensued, in the districts they were sent to rule over."

"The Governors Dalling and Cunningham, who are military men, lived in a state of continual warfare in their respective governments, and quitted them without being in the least regretted by the people, nay, to speak the truth, with their universal execrations."

"But that which above all things appears the most ridiculous, is the appointment of a military Governor to be a Chancellor."

“ Of the four last governors of Jamaica, two of them were captains of men of war, and the other two officers of the army.”

“ To the imprudence and violence of *military magistrates* may, in a great measure, be attributed the so speedy dismemberment of America from the British empire.”

“ The more recent misconduct of General Haldimand, the late Governor of Canada, cannot; however; be passed over in silence. His administration in that province was truly in the military stile; oppressive to the people, and unavoidably attended with their general discontent and reproach.”

“ To recapitulate all the oppressions of military governors, would be too great a task: it would require many volumes to describe and prove the numberless instances, in which they have daringly violated, in their governments abroad, the unchangeable liberties of British subjects.”

Certainly, gentlemen, whose very education, profession, and practice, teach and habituate them to passive obedience to their superiors, and arbitrary government of their inferiors; will never be very welcome governors to the colonists; and, therefore, it is not possible that they can ever find themselves as comfortable, useful, or

successful in their governments as a civilian would be. Yet, unconciliating as their mode of governing is, they will always have, even, too much influence from their extensive patronage; which, “universally, is power: — he who possesses in a sufficient degree the means of gratifying the desires of mankind after wealth and distinction, by whatever checks and forms his authority may be limited or disguised, will direct the management of public affairs, whatever be the mechanism of the political engine, he will guide the motion.”*

This tendency towards arbitrary, military government, is still stronger in Trinidad than in other colonies; for, in them, on the absence or death of the Governor, the government devolves upon the senior member of the Council, during his Majesty's pleasure: but, the commission in Trinidad directs, that, in such cases, the government shall devolve upon the *next in military command*: — never taking into consideration, a necessary knowledge in the affairs of a West-Indian colony; and an experience in matters of policy and civil government.

At present, a new Governor produces little or no alteration in the mode of governing: for,

* Paley's Political Philosophy, vol. ii, p. 197.

when there is no change in other men, the same measures are continued.

A general assembly would correct these evils among us. A new Governor would select new advisers. The election of a new assembly would afford the opportunity to exclude corrupt members: and any officers of government whose conduct might merit reproach, would not fail to meet with it in the most public form. There would be, then, some chance of correcting abuses; which, now, not only go unpunished, but almost unnoticed. In such arbitrary governments, the broadest remonstrance produces no good effect, if the accused can be made useful: and the accuser, who endeavours to bring public offenders to justice, calls down upon his own head, in secret, all the effects of the wicked influence, which had been before exercised to the injury of the public.

In such governments the liberty of the press, "that *palladium* of all our rights," and "that channel through which writers diffuse the light of truth among the people, and display its radiance to the eyes of the great," — is so absolutely prohibited, that the sources of information can be always polluted; every thing can be falsely represented by private influence, uncontradicted and uncontroverted. Through secret

channels, the worse motives may be ascribed to the best actions; and the best Governors may thus be irritated against the most virtuous subjects.

Such will always be the consequences of "the secrecy, the jealousy, and the solitude of despotic government."

It *may* be possible, that liberty may be enjoyed under a *good Governor, having good Counsellors*, even in an *absolute* government: but, the experiment would not be found to produce always the same result: because the goodness and wisdom of *such* a Governor could not be guaranteed in his successors. The right of personal security, liberty, and property, can only be secured to the people under a Governor possessing all the power to do good; but, prevented by the constitution from doing evil. For, however enlightened and benevolent the views of a Governor may be, on his first arrival in an absolute government, his very nature soon becomes altered. The great distance by which the colonies are separated from the mother-country, is a means of screening exaction, abuse, and oppression; and affords that facility of concealment, which frequently corrupts the man, who, under other circumstances, would have viewed with horror and detestation, even the semblance of

Injustice. Ambition, and the love of power, have led men on, from one step to another, to the most outrageous vices, in all ages: and the possession of prerogative, even, though fairly acquired, if unlimited, will so intoxicate most men, as to produce equally bad effects. For though "prerogative" is said to be "nothing but the power of doing good without a rule:"* yet, I apprehend, it will only do good, as Blackstone says, "when balanced and regulated by its proper counterpoise, timely and judiciously applied. Its operations are, then, equable and certain; it invigorates the whole machine, and enables every part to answer the end of its construction." But, as he previously says, — "the enormous weight of prerogative, if left to itself, (as in arbitrary governments it is,) spreads havoc and destruction among all its inferior movements."†

The prospect of losing the power, to dispose of the large sums brought into the colonial treasury by the import and export duty, is another inducement; and, no doubt, not the least, which the promoters of a legislative council have in urging its establishment. They most earnestly

* Locke on Government.

† Commentaries, vol. i, p. 240.

wish to exclude the people from being consulted on the taxes which are to be levied upon them ; and, to continue to retain to themselves the disposal of the public funds ; without being liable to the investigation of any auditors or examiners of accounts, either in the colony or the mother-country. This has been the case for the last ten years : and an immense sum must have been collected, and disposed of, contrary to every principle of taxation known in the British constitution.

Nothing but the ignorance of the former administrations, as to the finances of Trinidad, could have occasioned so important a matter to remain in the same state, so long. The whole amount of this impost, in the nine or ten years of our possession, must amount to an enormous sum ;* which has been expended in the country. And let any man, who has travelled through it, point out, if he can, what appearances there

* How differently was the colony of Jamaica treated in its early government, although under the same description of circumstances. In Sir Thomas Modyford's Instructions, it was directed, " that no duties shall be laid in the Island upon the import or export of any goods for twenty-one years, nor shall any duty be laid here upon the produce of Jamaica for five years." Edwards Hist. W. Indies, vol. i, p. 250.

are to be seen in the whole island, of an expenditure in any degree proportionable.

If these sums had been remitted to the treasury of England, such a revenue to the mother-country, would have excited a proportionate degree of attention to its prosperity, liberty, and happiness. But because a few self-interested and designing men have kept the ministers in the dark, as to the true interests of the country, those ministers have blindly rewarded and encouraged such perfidious conduct, by continuing them in the full exercise of authority over an *insulted, oppressed, and ruined* Colony. I say *insulted*; for that enthusiastic admiration which every true Briton feels for the British constitution, when it has been expressed in Trinidad, has overwhelmed the Englishman with personal abuse. *That* which is every thing dear in England, and for which our Ancestors fought, and spilt their blood, and spent their treasure, must not be *even favorably* spoken of among us.

Those patriotic efforts, which were formerly rewarded with honors, have been deemed *sedition*, punished with *imprisonment*, and persecuted with unrelenting malice.* The emanci-

* As was the case with Mr Higham and others, on account of the loyal address in 1802.

pation of *Roman-Catholics*, and *Africans*, has excited the attention, and divided the opinions of the British nation, even in an alarming degree; while British Protestants, in Trinidad, whose birth-right is freedom, and whose happiness ought to be a dear consideration to their fellow-subjects, have been suffered, during the last ten years, to groan in galling slavery; — their petitions neglected, their complaints suppressed, and insults added to their oppressions.

Strange! that we should be so apt to forget our nearest interests, while we suffer our minds to be ardently engaged in the consideration of evils, so much more remote.

The emancipation of our countrymen, in that island, ought to call forth the *first* efforts of that enthusiastic philanthropy, which distinguishes the British character. — But, to neglect subjects, who stand in the *nearest* retation to the British nation, while we are bestowing our commiseration on *such distant* connexions, is a proof of that morbid sensibility, which deranges the faculties of the public mind, and prevents the due exercise of political reason.

I have exposed, in a former part of my letter, the evil consequences produced by the unprecedented, ill-placed, illegal, and impolitic imposition of *three and a half per cent.* upon the manu-

factures and produce of England and of this Island. But, the irregular exaction of labour, by slaves taken from estates to repair roads, and act as pioneers, however necessary and proper for the safety and defence of the colony, has been, also, very oppressive, in consequence of the want of that regular mode of conducting business, as adopted in the other islands by the representative assemblies. — Modes of serving the country, in which the people cheerfully and advantageously comply, when they are consulted, as to the least injurious way, in which such assistance can be granted.

“ In every form of government from which the people are excluded, it is the interest of the governors to get as much, and of the governed to give as little, as they can.” So it will always be found, that, under the proposed Legislative Council, the means of supporting the expences of the Island will be obtained with difficulty. The calculations of the productiveness of taxes will be constantly erroneous; because the methods of collecting them will be considered oppressive; and will, therefore, meet with every possible evasion and resistance. The disposal of the public funds will excite dissatisfaction, suspicion, and reproach. The colony will be thereby kept in continual discord; and the go-

vernment at home will be annoyed by reiterated complaints.

The colonists have been long since taught how to value, and to assert their rights upon this point. "The law of the land has postponed even public necessity to the sacred and inviolable rights of private property."—"No subject of England can be constrained to pay any aids or taxes, even for the defence of the realm or the support of the government, but such as are imposed by his own consent, or that of his representatives."* Statute 25 Edw. 1. c. 5 and 6.

While I am astonished that so much has been borne with such submissive patience, I lament that the sufferings of such peaceable and loyal subjects, have been treated with so much neglect and indifference; merely, because they have suppressed their complaints, in the fond hope that every new session of parliament would remove from their necks the galling yoke: from which, even at the end of ten years, they see no prospect of relief, no chance of obtaining their proper rank among the other colonies; unless by following the examples of Jamaica and Granada, in asserting their right to legislate for themselves; and, according to the principles of the British

* Blackstone's Com. vol. i, p. 140.

constitution, to raise taxes, and dispose of the revenues for the true benefit of the colony.

However much such an effort ought to be expected, and could not be condemned, it is to be hoped, that their admirable forbearance, and loyal submission, will so interest the feelings and consideration of his Majesty, as to supercede the necessity for such a contest as the colonies before-mentioned were unhappily involved in. "At such a moment, no honest man will remain silent or inactive. However distinguished by rank and property, in the rights of freedom we are all equal. As we are Englishmen, the least considerable man among us, has an interest equal to the proudest nobleman, in the laws and constitution of this country, and is equally called upon to make a generous contribution in support of them." — "It is a common cause, in which we are all interested, in which we should all be engaged. The man who deserts it at this alarming crisis is an enemy to his country:" — "the subject, who is truly loyal to the Chief Magistrate, will neither advise nor submit to arbitrary measures."*

The right of the king to tax the colonies was given up, in a great measure, in the case of

* Junius.

Jamaica, and with respect to America, SIR ROBERT WALPOLE said : “ *it was a measure too hazardous for him to venture upon ; he should therefore leave it to some more daring successor in office to make the experiment.”

The DUKE OF LEEDS “ † conceived it a dangerous doctrine to admit that the crown may claim the allegiance of millions of British subjects independent of, and unconnected with, the two other constituent parts of the legislature. Such was his firm idea with regard to the legislative authority of this country over its colonies. And he was no less fully convinced that the measure of levying taxes in so distant a part of the empire contrary to the almost unanimous opinion of the people proposed to be taxed, was an ill-advised, inexpedient, and most impolitic step on the part of government.” And that great and virtuous statesman, LORD CHATHAM, declared, on Thursday, January 30th, 1763, that — “ Taxation is no part of the governing or legislative power. The taxes are a voluntary gift and grant of the Commons alone. In legislation, the three estates of the realm are alike concerned ; but the concurrence of the Peers

* Belsham. Mem. Geo. III. vol. i, p. 102.

† Biographical Anec. vol. i, p. 35.

and the crown to a tax, is only necessary to close with the form of a law. The gift and grant is of the commons alone. In antient days the crown, the barons, and the clergy possessed the lands. In those days the barons and the clergy gave and granted to the crown."

"They gave and granted what was their own. At present since the discovery of America, and other circumstances permitting, the commons are become the proprietors of the lands. The property of the lords compared with that of the commons is as a drop of water in the ocean, and this house represents these commons, the proprietors of the lands, and these proprietors virtually represent the rest of the inhabitants. We, therefore, in this house, give and grant what is our own: but in an American tax what do we do? We, your Majesty's commons for Great Britain, give and grant to your Majesty, what? our own property? No! we give and grant to your Majesty the property of your Majesty's commons in America. It is an absurdity in terms."*

And LOCKE declares, that "if any one shall claim a power to lay and levy taxes on the people by his own authority and without such

* Biographical Anec. vol. ii, p. 128.

consent of the people, he thereby invades the fundamental laws of property and subverts the end of government. For what property have I in that, which another man may by right take, when he pleases, to himself?" *

But, as the author of the Constitution of the British Colonies feelingly observes on the American dispute, "*no good man* would wish to revive the question concerning the right to tax the colonies."

Since that period the resistance of the colony of Grenada to pay the *four and a half per cent.* was succeeded by its being taken off in that Island; and, also, in Dominica, St Vincents, and Tobago: although it was levied on their produce alone: and not, as in Trinidad, upon produce; and English manufactures also.

A representative-house would afford many great advantages: besides levying taxes for the support of the colony in the most general and impartial manner; it would excite public spirit, promote more equal laws, and exempt men from useless restrictions. The democratic part of a government opens the road to preferment for men of virtue and talents; and calls forth the

* On Government, p. 290.

mental powers of the best men in the service of the country.

“ Where the whole or any effective portion of civil power is possessed by a popular assembly, more serious pursuits will be encouraged; purer morals, and a more intellectual character, will engage the public esteem; those faculties, which qualify men for deliberation and debate, and which are the fruit of sober habits, of early and long continued application, will be roused and animated by the reward, which, of all others, most readily awaken the ambition of the human mind, political dignity and importance.” *

After the galling situation in which the community of Trinidad have been so long exposed, there is not any thing that will tend so soon, or so much, to dissipate their chagrin, and bury in oblivion their former grievances, as their restoration to those liberties and privileges which they consider as their birth-right; and which they would immediately feel in the conciliatory measures, that would be adopted by the candidates for public favor.

“ Popular elections procure to the common people courtesy from their superiors. That contemptuous and over-bearing insolence, with

* Paley's Philosophy.

which the lower orders of the people are wont to be treated by the higher, is generally mitigated where the people have something to give. The assiduity, with which their favor is sought upon these occasions, serves to generate settled habits of condescension and respect; and as human life is more embittered by affronts than injuries, whatever contributes to procure mildness and civility towards those who are most liable to suffer from a contrary behaviour, corrects, with the pride, in a great measure the evil of equality, and deserves to be accounted amongst the most generous institutions of social life."*.

Much has been said, on *former occasions*, as to the prerogative of the crown to govern conquered colonies. And, Bryan Edwards, as though he could foresee this *new occasion* for the discussion, says: "the intelligent reader will admit the vast importance of this question, both to the present age and to posterity; and perceive how greatly the dearest interests of men, who, in the contingencies of war, shall hereafter fall under the British dominion, may possibly be concerned in its discussion."† And, in the postscript to the History of Granada, he gives us

* Paley.

† Hist. West Indies, vol. i, p. 368.

the opinion of *one of his Majesty's Sergeants in the law*, a gentleman of distinguished abilities and learning ; as follows: — “ if the King receives the inhabitants under his protection, and grants them their property, I deny that he has power to fix such terms and conditions as he thinks proper ; for he cannot reserve to himself, in his individual capacity, legislative power over them: that would be to exclude the authority of the British legislature from the government of a country subdued by British forces, and would be an attempt to erect *imperium in imperio*. One consequence of this would be, that such conquered territory might descend to an heir of the King not qualified, according to the act of settlement, to succeed to the crown of Great Britain. The king might give it to a younger son, or bestow it on a stranger. A thousand other absurd consequences might be pointed out, as resulting from such incongruity.”

The best authorities have so well set forth the question, in favor of the rights and privileges of the British subject in ceded countries to be protected and governed by the same laws of the realm, which protect and govern all his Majesty's subjects; that it is almost unnecessary, to state any thing more, than the safety and facility

with which the British colonial system, *sub modo*, may be introduced into Trinidad.

However, as I have understood, that since *Mr Browne's* publication of the *Laws of Antigua*, that code has been talked of, as an easy means by which to establish, *instante*, an English system of jurisprudence in Trinidad, I cannot forego this opportunity, to recommend that such a measure should not be adopted.

It may be allowed, that the code alluded to, is competent to the good government of Antigua; but, I contend, that it is not equally adaptable to any other colony: and this is the case with every other code and colony in the West Indies. The general form of the legislative is the same in every island: but, as some islands have been originally settled by British subjects, and others have been conquered from, or ceded by different nations: in the former, the English law then existing, being the birth-right of every British subject, was immediately in force; or so much of it as was applicable to the condition of an infant colony; but, in the latter, the common law of England, as such, had no allowance or authority there; they being no part of the mother-country; but distinct (though dependant) dominions. So says Blackstone. However, I think there is a better reason than

their "being distinct dominions," for not implicitly adopting the common law of England in the decisions of the colonial courts of judicature. I mean, that, as the governments of these islands have had a different origin from each other, the difference of language, religion, and regulations, which they were accustomed to, previous to our possession of them, gave rise to the difference in their code of laws. As the circumstances of each country varies, suitable customs were found established among the inhabitants; the continuance of which was necessary to their peace and welfare: and as long as they were established by common consent, consistent with each other, certain, and reasonable, it was unnecessary and unadvisable to abolish them. Therefore, the code of laws of each colony will be found to differ, in certain points, from those of the other colonies; and the laws of Antigua, or any other island, would be found as inapplicable to the peculiar situation and circumstances of Trinidad, as the laws of England would be to all the islands, which, ever since their settlement, have been governed by their various, peculiar, and suitable regulations.

Trinidad is not under any extraordinary difficulty in this respect. Our situation is exactly that, in which all other conquered or ceded colo-

nies have been placed. We have only that task to perform, which the other colonies have performed to their credit and satisfaction. And their legislative labours have been productive of systems, which have been generally, and fully competent to all the purposes of peace, good order, and good government: and have furnished us with means, such as they never equally possessed, of improving, and perfecting the colonial government and jurisprudence.

It has been urged by the enemies to our petition, that great confusion, dissatisfaction, and difficulties, will be the result of a direct change from the *Spanish* to the *English* system; on account of the consequent deviations from customs and proceedings, so long established and well understood.

If this argument had been admitted, in the cases of all the colonies that have fallen to Great Britain, they would have remained, to this day, under the same form of government and laws, that were in use at their conquest, or cession. It would be absurd to suppose such a state of things to be necessary; merely, on account of the temporary difficulty of assimilating the governments to each other.

If the dangers of *any* alteration were *their* objection, then, *their own* proposal is equally

dangerous : for they recommend a code of mixed laws ; which will be equally new to the conquerors and conquered : and, therefore, will give dissatisfaction to both. As a change must be effected, surely, we ought to avoid general dissatisfaction, by conciliating, at least, one party : and, if a preference be given, our countrymen have the superior claim to it. This does not happen to be a cause of any uneasiness to us ; as the principal Spaniards have petitioned for a complete change to the English colonial system. They are perfectly aware, that an abrupt introduction of the new code is a mere fiction. They have had time and experience enough to know, that all the confusion, dissatisfaction, and difficulty, which a dereliction of old, and an adoption of new customs and proceedings can produce, have been produced already, by the deviations which I have formerly noticed : and, therefore, their fears are over.

It is a fact, that there cannot be any such dangerous abruptness in a change of colonial polity : for although the form of the government, and the modes of practice in the tribunals, be altered ; yet, so much of the law of every conquered, or ceded country, has been always found necessary to be preserved, that the conquered people, being conciliated by the ob-

servance of a few customs, have the more willingly submitted to the great, and more remote alteration in the government of the country.

In the old colonies, the *principal* acts of the legislature are, the *court-act*, *militia-act*, and *slave-act*: and, in those islands where the circumstances required it, a *quieting-act*. As to the first, we have already changed from the practice of the tribunals of the *Alcaldes*; to the Court of the Chief Judge; and from the proceedings of the *Escribano* to those of the English lawyer. The militia is not governed by any Spanish rules; but by regulations promulgated by the English governors, who have already commanded it: and there will be no difficulty in bringing these regulations into the form of a *bill*. The slaves are, also, managed upon principles, already printed and published, as a *code noir*; by authority of our English governors: and with equal facility, they may be improved into a *slave-act*.

It may also be a wise and salutary measure to pass a *quieting-act*; which, in a colony so peculiarly circumstanced as this has been for so many years, justice may imperiously demand. Such a law, under proper limitations and provisions, will tend to aid *bona fide* possessors,

whose titles, though defective in law, may be good in equity.

It should, of course, be particularly watchful in stretching forth its protecting arm, to favor and defend the just rights of all Spaniards and other foreigners, whose laws of tenure may differ from our own. A law of this kind was wisely passed in the British *Virgin Islands*, in the year 1783: and the legislative body, very prudently insisted on its being the precursor of their court-act; — thereby shutting the door against vexatious contention, and endless litigation.

But, it is in vain to attempt to form any code of laws, to be sent out from this kingdom, to govern that colony. The body of the laws must be formed upon the spot where the view can be had, and the exigencies and *desiderata* discovered.

It would be presumptuous in any individual here, to attempt to give more than the outline of the system, that may be best adapted to the colony; however well he may understand, and ardently desire to promote, its welfare and interests,

It is with great diffidence, but with the best motives, that I shall venture to suggest some improvements upon the form of the old colonial governments and jurisprudence.

First, with regard to the Governor. I recommend *that he be not a military man*: but, on the contrary, that he shall be a man well acquainted with the constitution and laws of his country. *Cedant arma togæ*. I have heard, that there are some objections to the separation of the civil and military command; but, I think the evils of their union are greater than those of their separation; and the evils of the latter may be obviated by the presence of a Brigadier-General to command the forces. Mr Stokes, who was his Majesty's Chief Justice of Georgia, and had much experience in our West-Indian colonies, also, was decidedly of this opinion. He says: "when the Governor happens to be a lawyer, the business is properly conducted. *A Civilian* was governor of Barbadoes, and *a Common Lawyer* of Georgia, for many years; during *their* administration, the government of those colonies was carried on with much reputation, and greatly to their credit. But when the Governor *is not a Lawyer*, he is generally under the influence of some Counsel or Attorney, who makes his decrees for him, and frequently directs every other act of government. If this Tutor *happens* to be a man of integrity and abilities, the business goes on well; but if he is a rash ignorant man, the Governor is led into

many imprudent measures, and perhaps is recalled in disgrace." *

I will recommend, in addition to this hint of Stokes, that when the Governor is not a good lawyer, great care be taken to appoint a proper person as his Secretary; one who has been educated in the law: but who should not be allowed to practice in the colony. A proper salary of course should be annexed to this office; and the importance of the colony demands such an appointment. These are necessary, and very serious cautions, in the appointment of a character, which is to involve in it, the supreme Judge with the Governor.

It is of great consequence, that neither the Chief Judge, assistant Judges, Attorney-general, or Solicitor-general, should be members of the Council. It would be wrong, that the Judges should have a voice in this tribunal, upon appeals from the decisions of their own courts. And it would be equally wrong, if not more so, that the Crown-lawyers should become judges in this high court, upon occasions, in which both may have been interested as advocates for the parties in the lower courts.

* Constitution of British Colonies, p. 194.

Chancery-causes, and appeals in the nature of *writs of error* from the inferior courts, ought not to be heard and decided before the Governor *in council*, acting as Chancellor, in the first case; or, as a court of appeal, in the last. The Governor, *alone*, ought to hear and decide in all those causes. Because, in a West-Indian colony, there will be, almost always, some of the members of council who are interested for the parties, either by friendship, neighbourhood, property, expectancy, marriage, or blood. Notwithstanding our most serious intentions to guard ourselves against the influence of such predelections, we are, nevertheless, and in spite of our correctest notions, unconsciously yielding to some such imperceptible bias.

Here I must again quote the experience of Mr Stokes; who with great truth observes, that "in general, a Governor has fewer connexions in the country, and is less liable to influence than any one of the Council, who, for the most part are natives. A gentleman, who has interest to get a government, must be a man of some character and distinction; he is responsible for his conduct, and has at stake the loss of office: when he sits alone (be his disposition what it may) he will hardly venture to commit any flagrant acts

of injustice. But when a dozen Counsellors are placed on the bench with him, *defendit numerus*; and, if they are inclined to do mischief, they keep each other in countenance; and there are thirteen to divide the censurè among them. It very seldom happens, that either of these Counsellors has been bred to the law; and a Governor can have little assistance, and the country little benefit from a dozen gentlemen being placed on the chancery-bench, who know nothing of law." On both these points, this Lawyer gives us instances of great inconveniences in the colonies which he has visited.

If the Governor alone sit as Chancellor, and hear and decide in appeals; then, I do not see any objection to the Attorney-general being admitted to a seat in the council: but I would have the Solicitor-general excluded, in order that his services may be given to the lower house; in which he will be a valuable member. Their legal knowledge would be rendered more useful, by being thus divided between the two houses: and the Governor would gain an influence in the lower house, equal to what he would lose by the absence of the Solicitor-general from the upper house. But, as to the Chief-Judge, I consider his seat at the board of council, as, at all times, absolutely incompatible with justice, and the

safety of the persons, properties, and liberties of the people.

The commissions for the members of the upper house ought to be for life.

The members of council in the colonies are now considered, by men of independent spirit, as holding place without power; excepting the power of promoting the Governor's views, by adopting every thing implicitly which he suggests. Nor can it be expected to be much otherwise, while the Governor recommends their appointment, suspends them from office, and recommends their removal. This situation of the aristocratical branch of the colonial legislature, gives too much to the executive part of the government; and destroys the proper balance, which that body ought to produce between the executive and the common's house. Were the seats in the upper house for life only, and not hereditary, it would be, even then, more than sufficiently in favor of the executive. But, the independence of that one branch being destroyed, as it is now constituted, so overloads the executive with power, as often to produce in the assembly an increased and very necessary degree of energy, almost amounting to violence, in order to resist such an over-bearing influence.

If this be not the only, it is, at any rate, the greatest cause of misunderstanding and mischief in the present colonial legislatures. In consequence thereof, the councils have not that respectable weight and influence in the colonies, which they would have if they were more independent. The house of representatives is always jealous of the conduct of the council, or upper house, from very natural apprehensions of the undue influence which the Governor has therein.

When the members of the upper house are appointed for life, let the Governor be authorized to select from either house, or from both, a certain number of well-disposed, discreet, and experienced men, to form *a council of state*; and to insert their names with his own hand, in a book to be kept among the archives of the upper house. With these gentlemen he may consult and advise. And, as this is not to constitute any tribunal, both Attorney and Solicitor-general, as well as many other high officers of the government, would be proper persons for his choice. He, of course, should be at liberty to remove any one or more of them, and to appoint others in like manner, as is done by his Majesty in England.

This plan would give a character to the upper house, strengthen the executive power, and, in-

stead of concentrating too much influence in one point, would more equally diffuse the patronage and favor of the Governor through the whole legislature, and obviate the harsh effects it now produces. The appointment and removal at pleasure of these *privy-counsellors*, would give great influence to the Governor, without disturbing the organization of the legislature: — a more disinterested line of conduct would be observed by the upper house; with a more cordial co-operation of the commons; very much to the advantage of the colony, and to the honor of the government.

I have already said enough on the great necessity of appointing *Lawyers* to the situation of Judges; and of rendering them independent, both of the government, and the community; by permanent appointments, and such liberal salaries, as may enable them to support a proper and becoming dignity; and effectually place them above the sordid consideration of fees of office.

As the island of Trinidad is very extensive, and there are settlements in very distant districts of the country; let the Judges of the superior court go in circuit through the island, at three or four stated periods in the year, for the purpose of trying causes by jury, on a plan as nearly

similar to that which obtains in the circuit here, as the circumstances will admit. In this case, regard should be had to an equable demarcation of districts, and to the necessary number of them. This will be preferable to appointing a Judge in each district; who would be ignorant of the law; and, either his neighbours, friends, or self, frequently, interested in his decisions.

If the Judges of the supreme court go in circuit, for the purpose of trying causes by jury, great inconvenience, expence, and loss of time, to the parties and evidence, will be prevented; the practice of the courts will be more decorous; and the rules of decision will be more uniform and impartial. And I would recommend, that, there should be held in the capital of the Island, as many terms as there are circuits: those terms to be held at convenient distances of time after the circuits are ended: and, as far as is locally applicable, — during these terms, let all such objects of legal discussion be heard and determined, as come before the courts in Westminster-hall.

The office of *Commandant of district*, which, hitherto, has been the situation of a *petty governor*, ought to be abolished; and English justices of the peace should be established in the different parishes or districts: but it must be

evident, that *Aliens* ought to be excluded from that office; not so much on account of their religion, as on account of their ignorance of the laws, and the language in which they are written.

In the late discussion upon the *slave-trade abolition-bill*, in the house of lords, I heard my Lord Grenville declare, that Trinidad had always been intended and considered by government as a place of experiment for new plans of cultivation and colonial management; and that it never was intended to grant lands there to be cultivated by *new slaves*. As this seems to be the principle which government has set out upon with this Island; I hope the most will be made of the opportunity which such a fine acquisition affords, to improve upon the systems of legislation and jurisprudence of the other colonies; as well as upon the modes of cultivation, of which this island is susceptible.

The proximity of Trinidad to the continent of South America, affords opportunities for procuring labourers thence upon very moderate terms, compared with the expence of the labor of slaves. It would be a great aid to the other colonies, could they be supplied by labourers from the continent with the same facility; and, indeed, it is well worth while on

such an account, if not to conquer that whole continent, at least, to make good some convenient settlements upon its coast ; which, besides giving us the commerce of their neighbourhoods, and an opening to the interior, would supply us with *hired* labourers ; who would go over to the islands, and assist in getting in the crops. This would greatly relieve the slaves : and, by supplying any deficiency which may be felt from the abolition of the slave-trade, would prevent the ruin of those planters whose estates are short-handed ; and enable them to carry on their work, until they could look around them to make better arrangements.

These suggestions may lead to other improvements : but, to enter into all the plans and recommendations, which the peculiar local situation and capacities of Trinidad may suggest, would occupy more time and attention than I can venture to exact, or your Grace would be likely to afford at the end of this long letter. On the present occasion, it was only my intention to prove the necessity, safety, and facility, of making the change in the government and laws of the colony ; which will be, naturally, succeeded by the adoption of all those minute improvements, of which the Island is capable.

I have endeavoured to demonstrate the necessity, safety, and facility, of the measures which I propose, by as complete a view of the circumstances of the country, and the state of parties, as the political agitation of the colony will allow of.

Some parties will think that too much, and, others, that too little has been exposed. I have, however, exposed, only, what it was necessary for your Grace to know.

I may not have gratified the lively resentments of those, who think they have great cause to complain; but, in avoiding as much as possible, personal disputes, in this address to your Grace, I have endeavoured to evince, that instead of the gratification of personal resentments, it is my ambition, and will be my happiness, to promote the welfare of my friends and fellow-subjects in this neglected Island. And, I most anxiously hope, that I shall be successful in my endeavours, to excite your Grace's attention, to an object of so much importance, as the obtaining, for this valuable colony, that liberty and happiness, which his Majesty's subjects enjoy in every British West-India Island, excepting in Trinidad.

The means which your Grace possesses in your exalted political situation, afford me the

most sanguine expectations, that, should my representations be seriously attended to, your Grace will earnestly recommend them to his Majesty's consideration. And, whenever his Majesty shall be graciously pleased, to grant the prayer of his loyal and affectionate subjects in Trinidad, there will be no difficulty in selecting from the governments of the neighbouring colonies, such parts of their modes of legislating, as may be so improved by wisdom and industry, and so adapted to local circumstances, as to obviate every objection that can be made to the introduction of English laws; and render a murmuring and desponding people, free, happy, and grateful.

I have the honour to be,

My Lord,

Your Graces

Most obedient Servant,

THE AUTHOR.

